



भारत का राजपत्र The Gazette of India

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सं. 1] नई दिल्ली, दिसम्बर 28, 2014—जनवरी 3, 2015, शनिवार/पौष 7—पौष 13, 1936
No. 1] NEW DELHI, DECEMBER 28, 2014—JANUARY 3, 2015, SATURDAY/PAUSA 7—PAUSA 13, 1936

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 25 नवम्बर, 2014

का.आ. 1.—भारतीय रिजर्व बैंक अधिनियम, 1934 (1934 का 2) की धारा 8 की उप-धारा (1) के खण्ड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, श्री राजीव महर्षि, सचिव, आर्थिक कार्य विभाग, वित्त मंत्रालय को तत्काल प्रभाव से और अगले आदेश होने तक, श्री अरविन्द मायाराम के स्थान पर भारतीय रिजर्व बैंक के केन्द्रीय बोर्ड में निदेशक नामित करती है।

[फा. सं. 7/2/2012-बीओ-I]

मिहिर कुमार, निदेशक

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 25th November, 2014

S.O. 1.—In exercise of the powers conferred by clause (d) of Sub-section (1) of Section 8 of the Reserve Bank of India Act, 1934 (2 of 1934), the Central Government hereby nominates Shri Rajiv Mehrishi, Secretary, Department of Economic Affairs, Ministry of Finance, to be a Director on the Central Board of Directors of Reserve Bank of India with immediate effect and until further orders vice Shri Arvind Mayaram.

[F.No. 7/2/2012-BO-I]

MIHIR KUMAR, Director

नई दिल्ली, 25 नवम्बर, 2014

का.आ. 2.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3 के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, नीचे दी गई सारणी के कालम (2) में विनिर्दिष्ट व्यक्तियों को उक्त सारणी के कालम (3) में विनिर्दिष्ट व्यक्तियों के स्थान पर कालम (1) में विनिर्दिष्ट बैंकों में सरकार द्वारा नामित निदेशक के रूप में तत्काल प्रभाव से और अगले आदेश होने तक, नामित करती है :-

(1)	(2)	(3)
बैंक ऑफ बड़ौदा	श्री मोहम्मद मुस्तफा, संयुक्त सचिव, वित्तीय सेवाएं विभाग	श्री के. पी. कृष्णन
इंडियन बैंक	श्री एन. श्रीनिवास राव, निदेशक वित्तीय सेवाएं विभाग	श्रीमती सुधा कृष्णन
यूनियन बैंक ऑफ इंडिया	श्री मिहिर कुमार, निदेशक, वित्तीय सेवाएं विभाग	श्री मोहम्मद मुस्तफा
युनाइटेड बैंक ऑफ इंडिया	श्री ए. के. डोगरा, उप सचिव, वित्तीय सेवाएं विभाग	श्री मिहिर कुमार, निदेशक

[फा. सं. 6/3/2012-बीओ-1]
विजय मल्होत्रा, अवर सचिव

New Delhi, the 25th November, 2014

S.O. 2.—In exercise of the powers conferred by clause (b) of Sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980, read with sub-clause (1) of clause 3 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby nominate the persons specified in column (2) of the table below as Government Nominee Director of the Banks specified in column (1) thereof, in place of the persons specified in column (3) of the said Table, with immediate effect and until further orders :—

(1)	(2)	(3)
Bank of Baroda	Shri Mohammad Mustafa, Jt. Secretary, Department of Financial Services	Shri K. P. Krishnan
Indian Bank	Shri N. Srinivasa Rao, Director, Department of Financial Services	Smt. Sudha Krishnan
Union Bank of India	Shri Mihir Kumar, Director, Department of Financial Services	Shri Mohammad Mustafa
United Bank of India	Shri A. K. Dogra, Dy. Secretary, Department of Financial Services	Shri Mihir Kumar, Director

[F.No. 6/3/2012-BO-I]

VIJAY MALHOTRA, Under Secy.

विधि और न्याय मंत्रालय

(विधि कार्य विभाग)

नई दिल्ली, 31 दिसम्बर, 2014

का.आ. 3.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उप-धारा (1) और उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित अधिवक्ताओं की, बंबई उच्च न्यायालय और बंबई उच्च न्यायालय की अधिकारिता के भीतर सभी अन्य अधिनस्थ न्यायालयों में भारत संघ या केन्द्रीय सरकार के किसी विभाग या कार्यालय द्वारा या उसके विरुद्ध सभी दांडिक मामलों का, जिनके अंतर्गत दांडिक रिट याचिकाएं, दांडिक अपीलें, दांडिक पुनरीक्षण, दांडिक निर्देश और दांडिक आवेदन भी हैं, संचालन करने के प्रयोजन के लिए, इस शर्त के अधीन रहते हुए कि ये अधिवक्ता अपनी नियुक्ति की अवधि के दौरान बंबई उच्च न्यायालय या बंबई उच्च न्यायालय की अधिकारिता के भीतर अन्य अधिनस्थ न्यायालय में भारत संघ या केन्द्रीय सरकार के किसी विभाग या कार्यालय के विरुद्ध हाजिर नहीं होंगे, 25 नवम्बर, 2014 से तीन वर्ष की अवधि के लिए या अगले आदेश तक, इनमें से जो भी पूर्वतर हो, अपर लोक अभियोजक के रूप में नियुक्ति की अवधि का विस्तार करती है :—

1. श्री दीपक एन. साल्वी
2. श्रीमती पूर्णिमा एच. कंधारिया
3. श्री संदीप काशीनाथ शिंदे
4. सुश्री उषा विनोद केजरीवाल
5. श्री मिलिंद शामराव सावंत
6. श्रीमती रिबेका गोंसालवेज़
7. श्री श्याम मेहता

8. श्री योगेश मोरेश्वर नखवा
9. श्री जितेंद्र आर. सोलंकी
10. श्री धैर्यशील ए. नालावडे

[फा. सं. 23(1)/2014-न्यायिक]
जोया हाडके, संयुक्त सचिव और विधि सलाहकार

MINISTRY OF LAW AND JUSTICE

(Department of Legal Affairs)

New Delhi, the 31st December, 2014

S.O. 3.—In exercise of the power conferred by sub-sections (1) and (2) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby extends the term of appointment of the following Advocates as Additional Public Prosecutor for the purpose of conducting all criminal cases including criminal writ petitions, criminal appeals, criminal revisions, criminal references and criminal applications by or against the Union of India or any Department or Office of the Central Government in the High Court of Bombay and other subordinate courts within the jurisdiction of High Court of Bombay, with effect from 25th day of November, 2014 for a period of three years or until further orders, whichever is earlier, subject to the condition that these advocates shall not appear against the Union of India or any Department or Office of the Central Government in any criminal case referred to above in the High Court of Bombay and other subordinate courts within the Jurisdiction of High Court of Bombay during the period of their appointment, namely :-

1. Shri Deepak N. Salvi
2. Smt. Purnima H. Kantharia
3. Shri Sandeep Kashinath Shinde
4. Ms. Usha Vinod Kejriwal
5. Shri Milind Shamrao Sawant
6. Smt. Rebecca Gonsalves
7. Shri Shyam Mehta
8. Shri Yogesh Moreshwar Nakhwa
9. Shri Jitendra R. Solanki
10. Shri Dhairyasheel A. Nalavade.

[F.No.23(1)/2014-Judl.]

ZOYA HADKE, Jt. Secy. and Legal Adviser

विदेश मंत्रालय

(सी पी वी प्रभाग)

नई दिल्ली, 26 दिसम्बर, 2014

का.आ. 4.—राजनयिक और कौंसुलर ऑफिसर (शपथ और फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में केन्द्र सरकार एतद्वारा श्री आई डी राजू, सहायक, श्री आलम हुसैन, निम्न श्रेणी लिपिक, श्री नवल प्रभाकर थपलियाल, सहायक, श्री मनीष कुमार, सहायक श्री संजय सहरावत, उच्च श्रेणी लिपिक, श्री हर्ष वर्धन सत्य प्रकाश, निम्न श्रेणी लिपिक, को 26 दिसम्बर 2014 से भारत के कौंसुलावास, दुबई में कौंसुलर सेवाओं के लिए सहायक कौंसुलर अधिकारी प्राधिकृत करती है।

[सं. टी. 4330/1/2014]

प्रकाश चन्द, उप सचिव (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV Division)

New Delhi, the 26th December, 2014

S.O. 4.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorises (1) Shri I.D.Raju Assistant, (2) Shri Alam Hussain, LDC, (3) Shri Naval Prabhakar Thapliyal, Assistant, (4) Shri Manish Kumar, Assistant, (5) Shri Sanjay Sahrawat, UDC, (6) Shri Harsha Wardhan Satya Prakash, LDC, in Consulate General of India, Dubai to perform the Consular services as Assistant Consular Officer with effect from 26th December 2014.

[No. T. 4330/01/2014]

PRAKASH CHAND, Dy. Secy. (Consular)

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

(स्वास्थ्य एवं परिवार कल्याण विभाग)

नई दिल्ली, 10 सितम्बर, 2014

का.आ. 5.—भारतीय चिकित्सा परिषद अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय चिकित्सा परिषद से परामर्श करने के पश्चात्, एतद्वारा उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित और संशोधन करती है, अर्थात् :-

उक्त प्रथम अनुसूची में “जीवाजी विश्वविद्यालय” के बाद “जेएसएस विश्वविद्यालय, मैसूर” जोड़ा जाए तथा “जेएसएस विश्वविद्यालय, मैसूर” के सामने “मान्यता प्राप्त चिकित्सा अर्हता” [कालम (2) में] शीर्षक के तहत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात्:--

(2)	(3)
बैचलर ऑफ मेडिसिन और बैचलर ऑफ सर्जरी	एम.बी.बी. एस (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी यदि यह जेएसएस मेडिकल कॉलेज, मैसूर, कर्नाटक, जहां वार्षिक प्रवेश क्षमता 150 एमबीबीएस छात्र हैं, में प्रशिक्षित किए जा रहे छात्रों के संबंध में जेएसएस विश्वविद्यालय, मैसूर, कर्नाटक द्वारा फरवरी 2013 में अथवा उसके बाद प्रदान की गई हो)।

[सं. यू. 12012/5/2014-एमई (पी-II)]

सुधीर कुमार, उप सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE**(Department of Health and Family Welfare)**

New Delhi, the 10th September, 2014

S.O. 5.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely :—

In the said First Schedule after "Jivaji University" "JSS University, Mysore" shall be added and against "JSS University, Mysore under the heading 'Recognized Medical Qualification' [in column (2)] and under the heading 'Abbreviation for Registration' [in column (3)], the following shall be inserted, namely :—

(2)	(3)
Bachelor of Medicine and Bachelor of Surgery	M.B.B.S. (This shall be a recognized medical qualification when granted by JSS University, Mysore, Karnataka in respect of students being trained at JSS Medical College, Mysore, Karnataka with annual intake of 150 MBBS students per year on or after, February 2013.

[No. U. 12012/5/2014-ME (P-II)]

SUDHIR KUMAR, Dy. Secy.

नई दिल्ली, 16 सितम्बर, 2013

का.आ. 6.—भारतीय चिकित्सा परिषद अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय चिकित्सा परिषद से परामर्श करने के पश्चात्, एतद्द्वारा उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त प्रथम अनुसूची में “चौधरी चरण सिंह विश्वविद्यालय, मेरठ” के सामने ‘मान्यता प्राप्त चिकित्सा अर्हता’ [इसके बाद कालम (2) के रूप में सन्दर्भित] शीर्ष के अंतर्गत अंतिम प्रविष्टि तथा उससे सम्बंधित प्रविष्टि के बाद ‘पंजीकरण के लिये सक्षिप्त रूप’ [इसके बाद कालम (3) के रूप में संदर्भित] शीर्षक के तहत निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात्:—

(2)	(3)
बैचलर ऑफ मेडिसिन एंड बैचलर ऑफ सर्जरी	एम.बी.बी. एस (यह मार्च 2013 में या उसके बाद प्रति वर्ष 100 एमबीबीएस छात्रों के वार्षिक प्रवेश के साथ सरस्वती चिकित्सा विज्ञान संस्थान, हापुर, गाजियाबाद में प्रशिक्षित किये जा रहे छात्रों के संबंध में चौधरी चरण सिंह विश्वविद्यालय, मेरठ द्वारा स्वीकृत किये जाने पर मान्यता प्राप्त चिकित्सा अर्हता होगी)।

[सं. यू. 12012/506/2006-एमई (पी-II)]

अनीता त्रिपाठी, अवर सचिव

New Delhi, the 16th September, 2013

S.O. 6.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely :—

In the said First Schedule against "Ch. Charan Singh University, Meerut, (Uttar Pradesh)" under the heading 'Recognized Medical Qualification' [in column (2)] and under the heading 'Abbreviation for Registration' [in column (3)], the following shall be inserted, namely :—

(2)	(3)
Bachelor of Medicine and Bachelor of Surgery	M.B.B.S. (This shall be a recognized medical qualification when granted by Ch. Charan Singh University, Meerut, (Uttar Pradesh) in respect of students being trained at Saraswathi Institute of Medical Sciences, Hapur, Ghaziabad, Uttar Pradesh on or after March, 2013 with annual intake of 100 MBBS students per year on or after March, 2013.

[No. U. 12012/506/2006-ME (P-II)]

ANITA TRIPATHI, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 26 दिसम्बर, 2014

का.आ. 7.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 4 के उपविनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्र. सं.	लाइसेंस संख्या	स्वीकृति करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भामा सं. (भाग/अनुभाग) : वर्ष
1	2	3	4	5	6
1.	4794790	2014.11.03	मैसर्स रिलायन्स पम्पस एन मोटर्स सं. 4, शक्ति नगर, उप्पिलीपालयम पोस्ट, कोयम्बतूर-641015	गहरे कुओं के लिए निम्नजनीय पम्पसेट	IS 14220 : 1994
2.	4796087	2014.11.03	मैसर्स श्री वन्जिअम्न एक्वा फार्म साइट सं. 52, एन. वी. बी. गार्डन, मन्नालम रोड, चेल्लम नगर, तिरुप्पुर-641687	पैकेजबंद पेय जल (पैकेजबंद मिनरल जल के अलावा)	IS 14543 : 2004
3.	4797493	2014.11.11	मैसर्स श्री रंगनातर फुड प्रोडक्ट्स एण्ड इंडस्ट्रीस सं. 175/2A2, एम. पुदुपालयम, पोल्लिकालीपालयम पोस्ट, दारापुरम रोड तिरुप्पुर-641665	पैकेजबंद पेय जल (पैकेजबंद मिनरल जल के अलावा)	IS 14543 : 2004
4.	4798394	2014.11.12	मैसर्स जय आन्जनेया एक्वा फार्म्स साइट सं. 1/245A, आशान तोट्टम, कालमपालयम गाँव, पोन्गुपालयम पोस्ट, पेरुमनल्लीर, तिरुप्पुर-641666	पैकेजबंद पेय जल (पैकेजबंद मिनरल जल के अलावा)	IS 14543 : 2004
5.	4798495	2014.11.12	मैसर्स टेलन्ट इंजीनियरिंग (सीबीई) प्राईवेट लिमिटेड एस एफ 475 केम्मानायकनपोलयम, कारेगौन्डनपालयम, अन्नूर यूनियन, तिरुप्पुर-641697	सामान्य संरचना इस्पात में पुनर्वेल्लन के लिए कॉर्बन, ढलवाँ इस्पात बिलेट इंगट, बिलेट, ब्लूम एवं स्लैब	IS 2830 : 2012
6.	4799396	2014.11.13	मैसर्स श्री वेट्रीवेल एक्वा प्रोडक्ट्स एस एफ सं. 132/1, पल्लातुर रोड, टी एन पालयम, वानिपुदुर गाँव, गोबीचेट्टीपालयम, ईरोड-638506	पैकेजबंद पेय जल (पैकेजबंद मिनरल जल के अलावा)	IS 14543 : 2004
7.	4802258	2014.11.21	मैसर्स हैड्रोमेक्स इंडस्ट्रीस एस एफ सं. 372/2, जोती नगर, 5 वॉ सड़क, कोयम्बतूर-641015	साफ, ठंडे पानी के लिए अपकेंद्रीय पुनरुत्पादक पम्प	IS 8472 : 1998

1	2	3	4	5	6
8.	4801963	2014.11.21	मैसर्स श्री बालाजी मिनरल्स 64/1B, सातम्बुर कालम, सातम्बुर चिन्नियमपालयम पोस्ट, ईरोड-638104	पैकेजबंद पेय जल (पैकेजबंद मिनरल जल के अलावा)	IS 14543 : 2004
9.	4805365	2014.11.21	मैसर्स केविन केयर प्राईवेट लिमिटेड एसएफ सं. 582, भवानी अन्तियूर मुख्य सड़क, कन्नाडीपालयम पोस्ट, भवानी तालुक, ईरोड-638314	मलाईरहित दूध पाउडर- भाग 1-मानक ग्रेड	IS 13334 (Part 1) : 1998
10.	4805264	2014.11.26	मैसर्स इन्डियन हिटाची वाटर पम्पस 27ए वेन्कटेश्वरा नगर, ब्लॉक, तोर्टीपालयम पिरिवु, सिविल ऐरोड्रॉम पोस्ट, कोयम्बतूर पूर्व तालुक, कोयम्बतूर-641014	गहरे कुओं के लिए निम्नजनीय पम्पसेट	IS 14220 : 1994
11.	4805567	2014.11.27	मैसर्स इन्डियन हिटाची वाटर पम्पस 27ए वेन्कटेश्वरा नगर, ब्लॉक, तोर्टीपालयम पिरिवु, सिविल ऐरोड्रॉम पोस्ट, कोयम्बतूर पूर्व तालुक, कोयम्बतूर-641014	कृषि एवं जल आपूर्ति के लिए साफ ठंडे पानी के बिजली के मोनोसेट पम्पस	IS 9097 : 2002
12.	4806569	2014.11.28	मैसर्स श्री वासवी चेइन्स 564-569, बिग बाजार सड़क, कोयम्बतूर-641001	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी-शुद्धता एवं मुहरांकन	IS 1417 : 1999

[सं. सीएमडी 13:11]

एम सदाशिवम, वैज्ञानिक 'एफ' एवं प्रमुख

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)****(BUREAU OF INDIAN STANDARDS)**

New Delhi, the 26th December, 2014

S.O. 7.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and Address (Factory) of the party	Title of the Standard	IS No. Part/Sec. : Year
1	2	3	4	5	6
1.	4794790	2014.11.03	M/s. Reliance Pumps N Motors No. 4, Sakthi Nagar, Uppilpalayam Post Coimbatore-641015	Openwell Submersible Pumpsets	IS 14220 : 1994
2.	4796087	2014.11.03	M/s. Sri Vanjiamman Aqua Farm Site No. 52, N.V.B. Garden, Mangalam Road, Chellam Nagar, Tirupur-641687	Packaged Drinking Water (other than Packaged Natural Mineral Water)	IS 14543 : 2004

1	2	3	4	5	6
3.	4797493	2014.11.11	M/s. Sree Ranganathar Food Products and Industries No. 175/2A2, M. Pudhupalayam Pollikalipalayam Post, Dharapuram Road, Tiruppur-641665	Packaged Drinking Water (other than Packaged Natural Mineral Water)	IS 14543 : 2004
4.	4798394	2014.11.12	M/s. Jai Anjaneya Aqua Farms Site No. 1/245A, Ashan Thottam, Kalampalayam Village, Pongupalayam (P.O.), Perumanallur, Tiruppur-641666	Packaged Drinking Water (other than Packaged Natural Mineral Water)	IS 14543 : 2004
5.	4798495	2014.11.12	M/s. Talent Engineering (Cbe) Pvt. Ltd. S. F. 475, Kemmanaickenpalayam, Kare Goundenpalayam, Annur (Union), Tiruppur-641697	Covered electrodes for manual metal arc welding of carbon and carbon manganese steel	IS 2830 : 2012
6.	4799396	2014.11.13	M/s. Sri Vetrivel Aqua Products S. F. No. 132/1, Pallathur Road, T N Palayam, Vaniputhur Village Gobichettipalayam, Erode-638506	Packaged Drinking Water (other than Packaged Natural Mineral Water)	IS 14543 : 2004
7.	4802258	2014.11.21	M/s. Hydromax Industries S. F. No. 372/2, Jothi Nagar, 5th Street, Coimbatore-641015	Centrifugal Regenerative pumps for clear, cold water	IS 8472 : 1998
8.	4801963	2014.11.21	M/s. Sri Balaji Minerals 64/1B, Sathambur Kalam Sathambur, Chinniyampalayam (P.O.), Crode-638104	Packaged Drinking Water (other than Packaged Natural Mineral Water)	IS 14543 : 2004
9.	4805365	2014.11.21	M/s. Cavinkare Pvt Ltd. S. F. No. 582, Bhavani Anthiyur Main Road, Kannadipalayam (P.O.) Bhavani Taluk, Erode-638304	Skimmed Milk Powder-Part-1 Standard Grade	IS 13334(Part-I : 1998
10.	4805264	2014.11.26	M/s. Indian Hitachy Water Pumps 27, Venkateshwara Nagar, Block Thottipalayam Piruvu, Civil Aerodome Post, Coimbatore (North) Taluk, Coimbatore-641014	Openwell Submersible Pumpsets	IS 14220 : 1994
11.	4805567	2014.11.27	M/s. Indian Hitachy Water Pumps 27, Venkateshwara Nagar, Block Thottipalayam Piruvu, Civil Aerodome Post, Coimbatore (North) Taluk, Coimbatore-641014	Electric Monoset Pumps for Clear, Cold Water for Agricultural and Water Supply Purposes	IS 9079 : 2002
12.	4806569	2014.11.28	M/s. Sri Vasavi Chains 564-569, Big Bazaar Street, Coimbatore-641001	Gold and Gold Alloys, Jewellery/ Artefacts-Fineness and Marking	IS 1417 : 1999

[No. CMD/13:11]

M. SADASIVAM, Scientist 'F' & Head

नई दिल्ली, 26 दिसम्बर, 2014

का.आ. 8.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियमन 5 के उपविनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शाई गई तारीख से रद्द/स्थगित कर दिया गया है :—

अनुसूची

क्र. सं.	लाइसेंस सं. सीएम/एल-	लाइसेंसधारी का नाम व पता	स्थगित किए गए/रद्द किए गए लाइसेंस के अंतर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द होने की तिथि
1	2	3	4	5
नवम्बर 2014-शून्य				

[सं. सीएमडी 13:13]

एम सदाशिवम, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 26th December, 2014

S.O. 8.—In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given below have been cancelled/suspended with effect from the date indicated against each :

SCHEDULE

Sl. No.	Licence No. CML-	Name and Address of the Licensee	Article/Process with relevant Indian Standard covered by the licence cancelled/suspension	Date of Cancellation
1	2	3	4	5
November 2014-Nil				

[No. CMD/13:13]

M. SADASIVAM, Scientist 'F' & Head

कोयला मंत्रालय

नई दिल्ली, 29 दिसम्बर, 2014

का.आ. 9.—केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) के अधीन भारत सरकार में कोयला मंत्रालय के द्वारा जारी की गई अधिसूचना संख्या का. आ. 747, तारीख 26 मार्च, 2013 जो भारत के राजपत्र के भाग II, खंड 3, उपखंड (ii), तारीख 30 मार्च, 2013 में प्रकाशित की गई थी, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में जिसका माप 204.710 हेक्टर (लगभग) या 505.84 एकड़ (लगभग) है, कोयले का पूर्वक्षण करने के अपने आशय की सूचना दी थी ;

और केन्द्रीय सरकार को यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमि के एक भाग में कोयला अभिप्राप्त है ।

अतः, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इससे संलग्न अनुसूची में वर्णित 204.710 हेक्टर (लगभग) या 505.84 एकड़ (लगभग) माप की उक्त भूमि का अर्जन करने के अपने आशय की सूचना देती है;

टिप्पण 1 :— इस अधिसूचना के अधीन आने वाले क्षेत्र के रेखांक संख्या एसईसीएल/ बीएसपी/जीएम(पीएलजी)/ भूमि/455, तारीख 26 मई, 2014 का निरीक्षण कलक्टर, जिला— कोरबा, छत्तीसगढ़ के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता-700001 के कार्यालय में या साउथ ईस्टर्न कोलफील्ड्स लिमिटेड, (राजस्व अनुभाग), सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है ।

टिप्पण 2 :— उक्त अधिनियम की धारा 8 के उपबंधों की ओर ध्यान आकृष्ट किया जाता है, जिसमें निम्नलिखित उपबंध है :—

अर्जन के बाबत आपत्तियाँ :-

8. (1) कोई व्यक्ति जो किसी भूमि में जिसकी बाबत धारा 7 के अधीन अधिसूचना निकाली गई है, हितबद्ध है, अधिसूचना के निकाले जाने से तीस दिन के भीतर सम्पूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का अर्जन किए जाने के बारे में आपत्ति कर सकेगा।

स्पष्टीकरण.— इस धारा के अन्तर्गत यह आपत्ति नहीं मानी जाएगी कि कोई व्यक्ति किसी भूमि में कोयला उत्पादन के लिए स्वयं खनन सक्रियाएं करना चाहता है और ऐसी सक्रियाएं केन्द्रीय सरकार या किसी अन्य व्यक्ति को नहीं करनी चाहिए।

- (2) उप-धारा (1) के अधीन प्रत्येक आपत्ति सक्षम अधिकारी को लिखित रूप में की जाएगी और सक्षम अधिकारी, आपत्तिकर्ता को स्वयं सुने जाने, विधि व्यवसायी द्वारा सुनवाई का अवसर देगा और ऐसी सभी आपत्तियों को सुनने के पश्चात् और ऐसी अतिरिक्त जाँच, यदि कोई हो, करने के पश्चात्, जो वह आवश्यक समझता है, वह या तो धारा 7 की उप-धारा (1) के अधीन अधिसूचित भूमि का या ऐसी भूमि में या उस पर के अधिकारों के संबंध में एक रिपोर्ट या ऐसी भूमि के विभिन्न टुकड़े या ऐसी भूमि में या उस पर के अधिकारों के संबंध में आपत्तियों पर अपनी सिफारिशों और उसके द्वारा की गई कार्यवाही के अभिलेख सहित विभिन्न रिपोर्ट केन्द्रीय सरकार को उसके विनिश्चय के लिए देगा।
- (3) इस धारा के प्रयोजनों के लिए वह व्यक्ति किसी भूमि में हितबद्ध समझा जाएगा जो प्रतिकर में हित का दावा करने का हकदार होगा, यदि भूमि या किसी ऐसी भूमि में या उस पर के अधिकार इस अधिनियम के अधीन अर्जित कर लिए जाते हैं।

टिप्पण 3 :— केन्द्रीय सरकार द्वारा, भारत के राजपत्र, भाग II, धारा 3, उप-धारा (ii), तारीख 4 अप्रैल, 1987 में प्रकाशित अधिसूचना संख्यांक का.आ. 905, तारीख 20 मार्च, 1987 द्वारा कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता-700001 को उक्त अधिनियम की धारा 3 के अधीन सक्षम प्राधिकारी नियुक्त किया जाता है।

अनुसूची

बगदेवा कोल ब्लॉक,

कोरबा क्षेत्र, जिला कोरबा (छत्तीसगढ़)

(रेखांक संख्या एसईसीएल/बीएसपी/जीएम(पीएलजी)/भूमि/455, तारीख 26 मई, 2014)

भू-सतह अधिकार:

क्रम सं.	ग्राम का नाम	ग्राम संख्या	पटवारी हल्का संख्या	तहसील	जिला	क्षेत्र हेक्टेयर में	टिप्पण
1	2	3	4	5	6	7	8
1.	लखनपुर	31	32	पौंडी उपरोड़ा	कोरबा	38.992	भाग
2.	विजयपुर	25	41	कटघोरा	कोरबा	136.908	भाग
3	जवाली	69	33	कटघोरा	कोरबा	4.379	भाग
4	अभयपुर	26	33	कटघोरा	कोरबा	19.150	भाग
5	सिंघाली	68	33	कटघोरा	कोरबा	5.281	भाग
कुल :- 204.710 हेक्टेयर (लगभग) या 505.84 एकड़ (लगभग)							

1. ग्राम लखनपुर (भाग) में अर्जित किए जाने वाले प्लॉट संख्या:- 555(भाग), 556(भाग), 557,559(भाग), 562 से 574, 575(भाग), 576(भाग), 577(भाग), 582(भाग)।

2. ग्राम विजयपुर (भाग) में अर्जित किए जाने वाले प्लॉट संख्या:- 1/1(भाग), 5(भाग), 6 से 10,11(भाग), 12(भाग),13(भाग), 14 से 19, 20(भाग), 56(भाग), 57, 58, 59(भाग), 60 से 115, 116(भाग), 117 से 151, 152(भाग), 153(भाग), 155(भाग), 159(भाग), 160 से 211, 212(भाग), 224(भाग), 225 से 229, 230(भाग), 231 से 234, 235(भाग),236, 237(भाग), 238(भाग), 239(भाग), 242(भाग), 263(भाग),264, 265(भाग), 266 से 425, 426/1(भाग), 426/2, 429(भाग),431(भाग),432 से 437, 438(भाग),439(भाग), 439/2, 440 से 449।

3. ग्राम जवाली (भाग) में अर्जित किए जाने वाले प्लॉट संख्या:- 12(भाग), 104(भाग), 105 से 108, 109(भाग), 110 से 114, 115(भाग), 118(भाग), 119(भाग), 120(भाग), 180(भाग) ।

4. ग्राम अभयपुर (भाग) में अर्जित किए जाने वाले प्लॉट संख्या:- 180(भाग), 226(भाग), 227 से 231, 237, 238, 241 से 284 ।

5. ग्राम सिंघाली (भाग) में अर्जित किए जाने वाले प्लॉट संख्या:- 1 से 7, 8/1(भाग), 313(भाग), 316(भाग), 317(भाग), 318(भाग), 319, 320, 321(भाग), 326(भाग), 327(भाग), 328, 329(भाग), 330(भाग) ।

सीमा वर्णन :

क-ख रेखा बिन्दु "क" से प्रारंभ होती है और ग्राम विजयपुर के प्लॉट संख्याओं 265, 263, 235, 238, 239, 237, 242, 230/2, 230/1, 224, 212, 159, 155, 152, 153, 116, 59, 56, 20, 13, 12/2, 12/1, 11, 1/1, 5 से गुजरती हुई ग्राम विजयपुर के उत्तरी सीमा में बिन्दु "ख" पर मिलती है ।

ख-ग रेखा बिन्दु "ख" से प्रारंभ होती है और ग्राम विजयपुर-अमरपुर, लखनपुर-अमरपुर के भागतः सम्मिलित सीमा, ग्राम लखनपुर के प्लॉट संख्याओं 561, 559, 555 के पश्चिमी सीमा, 556, 555, 575, 576, 582, 577, 582 से गुजरती हुई ग्राम विजयपुर-लखनपुर के सम्मिलित सीमा में बिन्दु "ग" पर मिलती है ।

ग-घ रेखा बिन्दु "ग" से प्रारंभ होती है और ग्राम विजयपुर के प्लॉट संख्याओं 407, 425, 426/1, 431, 429, 438, 439 से गुजरती हुई ग्राम विजयपुर-जवाली के सम्मिलित सीमा में बिन्दु "घ" पर मिलती है ।

घ-ङ रेखा बिन्दु "घ" से प्रारंभ होती है और ग्राम जवाली के प्लॉट संख्या 109 से गुजरती हुई ग्राम अभयपुर में प्रवेश कर प्लॉट संख्यांक 180 से होकर प्लॉट संख्याओं 238, 241, 237, 230, 228, 227, के पूर्वी सीमा, 226 से गुजरती हुई ग्राम अभयपुर-सिंघाली के सम्मिलित सीमा में बिन्दु "ङ" पर मिलती है ।

ङ-च रेखा बिन्दु "ङ" से प्रारंभ होती है और ग्राम सिंघाली के प्लॉट संख्या 8/1, 313, 316, 317, 318, 321, 327, 326, 330, 329, 8/1 से गुजरती हुई ग्राम सिंघाली-जवाली के सम्मिलित सीमा में बिन्दु "च" पर मिलती है ।

च-क रेखा बिन्दु "च" से प्रारंभ होती है और ग्राम जवाली के प्लॉट संख्या 114 के दक्षिणी सीमा, 180, 115, 104, 118, 119, 120, 104, 12 से गुजरती हुई आरंभिक बिन्दु "क" पर मिलती है ।

[फा.सं. 43015/32/2012 — पीआरआईडब्ल्यू-1]

दोमिनिक डुंगडुंग, अवर सचिव

MINISTRY OF COAL

New Delhi, the 29th December, 2014

S.O. 9.—Whereas by the notification of the Government of India in the Ministry of Coal number S.O. 747, dated the 26th March, 2013, issued under sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act) and published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 30th March, 2013, the Central Government gave notice of its intention to prospect for coal in 204.710 hectares (approximately) or 505.84 acres (approximately) of the land in the locality specified in the Schedule annexed to that notification;

And whereas, the Central Government is satisfied that coal is obtainable in a part of the said lands prescribed in the Schedule appended to this notification.

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 7 of the Coal Bearing Areas (Acquisition and Development) Act, 1957, the Central Government hereby gives notice of its intention to acquire the land measuring 204.710 hectares (approximately) or 505.84 acres (approximately) as surface rights in or over the said land described in the Schedule appended hereto;

Note 1 :— The plan bearing number SECL/ BSP/ GM(PLG)/ LAND/ 455, dated the 26th May, 2014 of the area covered by this notification may be inspected in the office of the Collector, District Korba, Chhattisgarh or in the office of the Coal Controller, 1, Council House Street, Kolkata - 700001 or in the office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur-495006 (Chhattisgarh).

Note 2 :— Attention is hereby invited to the provisions of section 8 of the said Act which provides as follows:-

Objection to acquisition:—

8. (1) Any person interested in any land in respect of which a notification under section 7 has been issued, may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or any rights in or over such land.

Explanation.— It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operation in the land for the production of coal and that such operations should not be undertaken by the Central Government or by any other person.

- (2) Every objection under sub-section (1) shall be made to the competent authority in writing, and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under sub-section (1) of section 7 or of rights in or over such land, or make different reports in respect of different parcels of such land or of rights in or over such land, to the Central Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government.
- (3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act.

Note 3 :— The Coal Controller, 1, Council House Street, Kolkata-700001 has been appointed by the Central Government as the competent authority under Section 3 of the said Act, vide notification number S.O. 905, dated the 20th March, 1987, published in Part II, Section 3, sub-section (ii) of the Gazette of India, dated the 4th April, 1987.

SCHEDULE

Bagdewa Coal Block

Korba Area, District Korba (Chhattisgarh)

[Plan bearing number SECL/ BSP/ GM(PLG)/ LAND/ 455, dated the 26th May, 2014]

Surface Rights:

Sl. No.	Name of village	Village number	Patwari Halka number	Tahsil	District	Area in hectares	Remarks
1	2	3	4	5	6	7	8
1.	Lakhanpur	31	32	Pondi Uprora	Korba	38.992	Part
2.	Bijaypur	25	41	Katghora	Korba	136.908	Part
3.	Jawali	69	33	Katghora	Korba	4.379	Part
4.	Abhaipur	26	33	Katghora	Korba	19.150	Part
5.	Singhali	68	33	Katghora	Korba	5.281	Part

Total:—204.710 hectares (approximately) or 505.84 acres (approximately).

1. Plot numbers to be acquired in village Lakhanpur (Part):- 555(P), 556(P), 557, 559(P), 562 to 574, 575(P), 576(P), 577(P), 582(P).

2. Plot numbers to be acquired in village Bijaypur (Part):- 1/1(P), 5(P), 6 to 10, 11(P), 12(P), 13(P), 14 to 19, 20(P), 56(P), 57, 58, 59(P), 60 to 115, 116(P), 117 to 151, 152(P), 153(P), 155(P), 159(P), 160 to 211, 212(P), 224(P), 225 to 229, 230(P), 231 to 234, 235(P), 236, 237(P), 238(P), 239(P), 242(P), 263(P), 264, 265(P), 266 to 425, 426/1(P), 426/2, 429(P), 431(P), 432 to 437, 438(P), 439(P), 439/2, 440 to 449.

3. Plot numbers to be acquired in village Jawali (Part):- 12(P), 104(P), 105 to 108, 109(P), 110 to 114, 115(P), 118(P), 119(P), 120(P), 180(P).

4. Plot numbers to be acquired in village Abhaipur (Part):- 180(P), 226(P), 227 to 231, 237, 238, 241 to 284.

5. Plot numbers to be acquired in village Singhali (Part):- 1 to 7, 8/1(P), 313(P), 316(P), 317(P), 318(P), 319, 320, 321(P), 326(P), 327(P), 328, 329(P), 330(P).

Boundary description:—

A-B Line starts from point 'A' and passes in village Bijaypur through plot numbers 265, 263, 235, 238, 239, 237, 242, 230/2, 230/1, 224, 212, 159, 155, 152, 153, 116, 59, 56, 20, 13, 12/2, 12/1, 11, 1/1, 5 and meets at point 'B' on the northern boundary of village Bijaypur.

- B-C Line starts from point 'B' and passes along partly common boundary of villages Bijaypur-Amarpur, Lakhanpur-Amarpur, along western boundary of plot numbers 561, 559, 555, through 556, 555, 575, 576, 582, 577, 582 of village Lakhanpur and meets at point 'C' on the common boundary of villages Bijaypur-Lakhanpur.
- C-D Line starts from point 'C' and passes in village Bijaypur through plot number 407, 425, 426/1, 431, 429, 438, 439 and meets at point 'D' on the common boundary of villages Bijaypur-Jawali.
- D-E Line starts from point 'D' and passes in village Jawali through plot number 109 then enter in village Abhaipur and passes through plot number 180, along eastern boundary of plot number 238, 241, 237, 230, 228, 227, through 226 and meets at point 'E' on the common boundary of villages Abhaipur-Singhali.
- E-F Line starts from point 'E' and passes in village Singhali through plot number 8/1, 313, 316, 317, 318, 321, 327, 326, 330, 329, 8/1 and meets at point 'F' on the common boundary of villages Singhali-Jawali.
- F-A Line starts from point 'F' and passes in village Jawali along southern boundary of plot number 114, through 180, 115, 104, 118, 119, 120, 104, 12 and meets at starting point 'A'.

[F.No. 43015/32/2012-PRIW-I]

DOMINIC DUNG DUNG, Under Secy.

नई दिल्ली, 29 दिसम्बर, 2014

का.आ. 10.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाबद्ध अनुसूची में उल्लिखित भूमि में कोयला अभिप्राप्त किये जाने की संभावना है;

इस अधिसूचना के अन्तर्गत आने वाले रेखांक संख्या राजस्व/12/2014, तारीख 13 जून, 2014 का निरीक्षण सेंट्रल कोलफील्ड्स लिमिटेड (भूमि और राजस्व विभाग), दरभंगा हाउस, राँची-834029 (झारखंड) के कार्यालय में या महाप्रबंधक, सेंट्रल कोलफील्ड्स लिमिटेड, राजरप्पा क्षेत्र, जिला रामगढ़ (झारखंड), उपायुक्त, जिला रामगढ़, झारखंड के कार्यालय में या महाप्रबंधक (खोज प्रभाग), केन्द्रीय खनन योजना और डिजाइन संस्थान, गोंदवाना पैलेस, कांके रोड, राँची (झारखंड) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता-700 001 के कार्यालय में किया जा सकता है।

अतः अब केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में कोयले का पूर्वक्षण करने के अपने आशय की सूचना देती है।

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति—

- उक्त अधिनियम की धारा 4 की उप धारा (3) के अधीन की गई कार्रवाई से हुई क्षति या संभावित क्षति अधिनियम की धारा 6 के अधीन किसी नुकसानी के लिए प्रतिकर का दावा कर सकेगा; या
- उक्त अधिनियम की धारा 13 की उप धारा (1) के अधीन समाप्त हो गई पूर्वक्षण अनुज्ञप्तियों के संबंध में या उक्त अधिनियम की धारा 13 की उप-धारा (4) के अधीन समाप्त हो गए खनन पट्टे के लिए प्रतिकर का दावा कर सकेगा और उक्त अधिनियम की धारा 13 की उप-धारा (1) के खंड (i) से खंड (iv) में विनिर्दिष्ट मदों के संबंध में उपगत व्यय को उपदर्शित करने के लिए उक्त भूमि से संबंधित सभी मानचित्रों, चार्टों और अन्य दस्तावेज,

इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर महाप्रबंधक, सेंट्रल कोलफील्ड्स लिमिटेड, राजरप्पा क्षेत्र, जिला रामगढ़ (झारखंड) या महाप्रबंधक, सेंट्रल कोलफील्ड्स लिमिटेड, भूमि और राजस्व विभाग, दरभंगा हाउस, राँची- 834029 (झारखंड) को सुपुर्द करेगा।

अनुसूची

कैथा कोयला खनन ब्लॉक

जिला — रामगढ़ (झारखंड)

(रेखांक संख्या राजस्व/12/2014, तारीख 13 जून, 2014)

सभी अधिकार :

क्रम सं.	मौजा/ग्राम	थाना	थाना संख्या	जिला	क्षेत्र एकड़ में (लगभग)	क्षेत्र हेक्टेयर में (लगभग)	टिप्पणियां
1	2	3	4	5	6	7	8
1.	रामगढ़	रामगढ़	82	रामगढ़	430.00	174.08	भाग

1	2	3	4	5	6	7	8
2.	कैथा	रामगढ़	85	रामगढ़	748.08	302.86	भाग
3.	गोबरधारा	रामगढ़	86	रामगढ़	507.64	205.53	भाग
				कुल क्षेत्र:	1685.72	682.47	

सीमा वर्णन :

क—ख रेखा, बिन्दु 'क' से प्रारम्भ होकर ग्राम रामगढ़, कैथा, गोबरधारा के भाग से गुजरती हुई बिन्दु 'ख' पर मिलती है।

ख—ग रेखा, ग्राम गोबरधारा से गुजरती जाती है और बिन्दु 'ग' पर मिलती है।

ग—क रेखा, दामोदर नदी के मध्य रेखा से गुजरती हुई प्रारम्भिक बिन्दु 'क' पर मिलती है।

[फा. सं. 43015 / 10 / 2014—पीआरआईडब्ल्यू—I]
दोमिनिक डुंगडुंग, अवर सचिव

New Delhi, the 29th December, 2014

S.O. 10.—Whereas, it appears to the Central Government that coal is likely to be obtained from the land in the locality described in the Schedule annexed hereto;

And, whereas, the plan bearing number Rev/12/2014, dated the 13th June, 2014, of the area covered by this notification may be inspected at the office of the Central Coalfields Limited (Land and Revenue Department), Darbhanga House, Ranchi- 834029 (Jharkhand) or at the office of the General Manager, Central Coalfields Limited, Rajrappa Area, District Ramgarh (Jharkhand), Deputy Commissioner, District Ramgarh, Jharkhand or at the office of the General Manager (Exploration Division), Central Mine Planning and Design Institute, Gondwana Place, Kanke Road, Ranchi (Jharkhand) or at the office of the Coal Controller, 1, Council House Street, Kolkata- 700 001.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development), Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal in land described in the aforesaid Schedule.

Any person interested in the land described in the afore mentioned Schedule may —

- claim compensation under section 6 of the said Act for any damage caused or likely to be caused by any action taken under sub-section (3) of section 4 of the said Act; or
- claim compensation under sub-section (1) of Section 13 of the said Act in respect of prospecting license ceasing to have effect or under sub-section (4) of Section 13 of the said Act for mining lease ceasing to have effect and deliver all maps, charts and other documents relating to the aforesaid land to show the expenditure incurred in respect of items specified in clauses (i) to (iv) of sub-section (1) of section 13 of the said Act,

to the office of the General Manager, Central Coalfields Limited, Rajrappa Area, District Ramgarh (Jharkhand) or General Manager, Central Coalfields Limited, Land and Revenue Department, Darbhanga House, Ranchi- 834029 (Jharkhand) within ninety days from the date of publication of this notification in the official gazette.

SCHEDULE

Kaitha Coal Mining Block

District-Ramgarh (Jharkhand)

(Plan bearing number Rev/12/2014, dated 13th June, 2014)

All Rights :—

Sl. No.	Mauja/Village	Thana	Thana number	District	Area(in acres) (approxim-ately)	Area(in hectares) (approxim-ately)	Remarks
1	2	3	4	5	6	7	8
1.	Ramgarh	Ramgarh	82	Ramgarh	430.00	174.08	Part
2.	Kaitha	Ramgarh	85	Ramgarh	748.08	302.86	Part
3.	Gobardhara	Ramgarh	86	Ramgarh	507.64	205.53	Part
Total Area :					1685.72	682.47	

Boundary Description:

- A-B Line start from 'A' passes through part villages of Ramgarh, Khaitha Gobardhara and meets at Point 'B'.
 B-C Line passes through Gobardhara village and meets at point 'C'.
 C-A Line passes through centre line of Damodar river and meets at starting point 'A'.

[F.No. 43015/10/2014-PRIW-I]

DOMINIC DUNG DUNG, Under Secy.

नई दिल्ली, 30 दिसम्बर, 2014

का.आ. 11.—केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 7 की उप-धारा (1) के अधीन जारी और भारत के राजपत्र भाग II, खण्ड 3, उप-खण्ड (ii) तारीख 11 जुलाई, 2014 में प्रकाशित भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्या का0 आ0 1822(अ), तारीख 20 फरवरी, 2014 द्वारा, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि और ऐसी भूमि में या उस पर के भू-सतह अधिकारों का अर्जन करने के अपने आशय की सूचना दी थी;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 8 के अनुसरण में केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है ;

और केन्द्रीय सरकार को पूर्वोक्त रिपोर्ट पर विचार करने के पश्चात् और छत्तीसगढ़ सरकार से पुनः परामर्श करने के पश्चात् यह समाधान हो गया है कि इससे संलग्न अनुसूची में वर्णित 593.330 हेक्टर (लगभग) या 1466.12 एकड़ (लगभग) माप वाली भूमि और ऐसी भूमि में या उस पर के भू-सतह अधिकार अर्जित किए जाने चाहिए ;

अतः अब, केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 9 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषण करती है कि इससे संलग्न अनुसूची में वर्णित 593.330 हेक्टर (लगभग) या 1466.12 एकड़ (लगभग) माप वाली भूमि और ऐसी भूमि में या उस पर के भू-सतह अधिकार अर्जित किए जाते हैं।

इस अधिसूचना के अन्तर्गत आने वाले क्षेत्र के रेखांक संख्या एसईसीएल/बीएसपी/जीएम(पीएलजी)/भूमि/457, तारीख 7 अगस्त, 2014 का निरीक्षण कलेक्टर, जिला सरगुजा (छत्तीसगढ़) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता-700001 के कार्यालय में या साउथ ईस्टर्न कोलफील्ड्स लिमिटेड (राजस्व अनुभाग), सीपत रोड, बिलासपुर -495006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है।

अनुसूची

सेन्धोपारा— II ब्लाक (महामाया यूजी), भटगांव क्षेत्र,

जिला— सरगुजा (छत्तीसगढ़)

भू-सतह अधिकार:

(क) राजस्व भूमि :

क्रम सं.	ग्राम का नाम	ग्राम संख्या	तहसील का नाम	जिला का नाम	क्षेत्र हेक्टर में	टिप्पणी
1.	कपसरा	15	भैयाथान	सरगुजा	129.320	भाग
2.	बरौधी	16	भैयाथान	सरगुजा	8.280	भाग
3.	जरही	20	प्रतापपुर	सरगुजा	87.610	भाग
4.	सेन्धोपारा	21	प्रतापपुर	सरगुजा	86.790	भाग
5.	दुरती	22	प्रतापपुर	सरगुजा	91.230	भाग
कुल : 403.230 हेक्टर (लगभग) या 996.38 एकड़ (लगभग)						

(ख) राजस्व वन भूमि (सीजेजे/बीजेजे):

क्रम सं.	ग्राम का नाम	ग्राम संख्या	तहसील का नाम	जिला का नाम	क्षेत्र हेक्टर में	टिप्पणी
1	2	3	4	5	6	7
1.	कपसरा	15	भैयाथान	सरगुजा	7.520	भाग
2.	बरौधी	16	भैयाथान	सरगुजा	0.600	भाग
3.	जरही	20	प्रतापपुर	सरगुजा	31.910	भाग

(1)	(2)	(3)	(4)	(5)	(6)	(7)
4.	सेन्धोपारा	21	प्रतापपुर	सरगुजा	5.830	भाग
5.	दुरती	22	प्रतापपुर	सरगुजा	72.950	भाग
कुल : 118.810 हेक्टर (लगभग) या 293.58 एकड़ (लगभग)						

(ग) आरक्षित वन भूमि:

क्र. सं.	कम्पार्टमेंट संख्या	उप प्रभाग	प्रभाग	क्षेत्र हेक्टर में	टिप्पणी
1.	1681(पी)	भैयाथान	दक्षिण सरगुजा	71.290	भाग
कुल : 71.290 हेक्टर (लगभग) या 176.16 एकड़ (लगभग)					

कुल योग(क+ख+ग)= 593.330 हेक्टर (लगभग) या 1466.12 एकड़ (लगभग)

1. ग्राम कपसरा (भाग) में अर्जित किए जाने वाले प्लॉट संख्या: 230 से 232, 236(भाग), 239 से 246, 248, 249, 307, 314 से 321, 334, 335, 337, 352 से 356, 359, 360, 420, 517, 518, 520 से 525, 528, 529(भाग), 530 से 535, 542 से 563, 710 से 713, 732 से 740, 743 से 745, 747 से 754, 757 से 772, 774(भाग), 776, 876, 888 से 912, 914, 967 से 972, 989 से 1246 ।

2. ग्राम बरौधी (भाग) में अर्जित किए जाने वाले प्लॉट संख्या: 48(भाग), से 51(भाग), 53 से 55, 56(भाग), 57, 58(भाग), 60(भाग), 68(भाग), 113(भाग), 115 से 117, 118(भाग), से 121(भाग), 123(भाग), 135(भाग), 139(भाग), 140(भाग), 142(भाग), 143, 144, 145(भाग), 146, 147(भाग), 162(भाग) ।

3. ग्राम जरही (भाग) में अर्जित किए जाने वाले प्लॉट संख्या: 105(भाग), 106 से 174, 175(भाग), 182(भाग), 183 से 282, 283(भाग), 284 से 286, 287(भाग), 288, 289(भाग), 296(भाग), 353(भाग), 354, 355(भाग), 356 से 361, 362(भाग), 363(भाग), 511 से 537, 538(भाग), 540(भाग), 541(भाग), 542 से 548, 549(भाग), 550(भाग), 598 से 607 ।

4. ग्राम सेन्धोपारा (भाग) में अर्जित किए जाने वाले प्लॉट संख्या: 1(भाग), 3(भाग), 8(भाग), 12(भाग), 13(भाग), 14(भाग), 15 से 25, 26(भाग), 30(भाग), 31(भाग), 33(भाग), 34 से 36, 81 से 88, 90 से 94, 96 से 99, 99/284, 100 से 283 ।

5. ग्राम दुरती (भाग) में अर्जित किए जाने वाले प्लॉट संख्या: 601(भाग), 604(भाग), 605, 606, 607(भाग), से 609(भाग), 610 से 630, 631(भाग), 632(भाग), 633 से 649, 650(भाग), 651(भाग), 1176(भाग), 1179(भाग), 1185(भाग), 1186 से 1198, 1199(भाग), 1200(भाग), 1201 से 1228, 1229(भाग) से 1231(भाग), 1232 से 1413, 1414(भाग), 1415 से 1449, 1450(भाग) से 1456(भाग), 1449(भाग) ।

सीमा वर्णन :

ब्लॉक— । :

क—ख रेखा बिन्दु "क" से आरंभ होती है और ग्राम कपसरा—बरौधी के भागतः सम्मिलित सीमा, ग्राम कपसरा के प्लॉट संख्या 710 के दक्षिणी सीमा से होती हुई बिन्दु "ख" पर मिलती है ।

ख—ग रेखा बिन्दु "ख" से आरंभ होकर ग्राम कपसरा के प्लॉट संख्या 713, 734, 732, 733, 739, 740, से होकर प्लॉट संख्या 743, 745 के पश्चिमी सीमा, 747 से होकर, 563 के दक्षिणी, 528 के दक्षिणी और पश्चिमी, 529 से होकर, 523, 524, 525 के पूर्वी, 525 के दक्षिणी, 525, 524, 523, 520 के पश्चिमी सीमा, 518 से होती हुई बिन्दु "ग" पर मिलती है ।

ग—घ रेखा बिन्दु "ग" से आरंभ होकर ग्राम कपसरा के प्लॉट संख्या 517/1 के उत्तरी सीमा से गुजरती हुई बिन्दु "घ" पर मिलती है ।

घ—ङ रेखा बिन्दु "घ" से आरंभ होकर ग्राम कपसरा के प्लॉट संख्या 517/1, 517/2, 517/4, 531, 532, 533, 535 के पूर्वी सीमा, 542 से होती हुई बिन्दु "ङ" पर मिलती है ।

ङ—च—क रेखा बिन्दु "ङ" से आरंभ होकर ग्राम कपसरा के प्लॉट संख्या 542 के पूर्वी, 543, 544, 545, 546 के उत्तरी, 547, 754, 757, बिन्दु "च", 763 के पूर्वी, 764, 765, 770, 771 से होकर, 776 के उत्तरी, पूर्वी और दक्षिणी, 772 के पूर्वी, 774 के उत्तरी और पूर्वी सीमा से होती हुई आरंभिक बिन्दु "क" पर मिलती है ।

ब्लाक—II :

- छ—ज रेखा बिन्दु “छ” से आरंभ होकर ग्राम कपसरा—सेन्धोपारा के भागतः सम्मिलित सीमा, ग्राम सेन्धोपारा के प्लाट संख्या 1/1, 1/2, 36 से गुजरती हुई बिन्दु “ज” पर मिलती है।
- ज—झ रेखा बिन्दु “ज” से आरंभ होकर ग्राम सेन्धोपारा के प्लाट संख्या 3, 18 से गुजरती हुई बिन्दु “झ” पर मिलती है।
- झ—ञ रेखा बिन्दु “झ” से आरंभ होकर ग्राम सेन्धोपारा के प्लाट संख्या 18, 17/1, 12, 13, 14, 8, 30, 31, 33 से होकर प्लाट संख्या 34/3, 35, 139 के उत्तरी सीमा, 136/1 से गुजरती हुई बिन्दु “ञ” पर मिलती है।
- ज—ट रेखा बिन्दु “ज” से आरंभ होकर ग्राम सेन्धोपारा के प्लाट संख्या 136/1, 84, 83, 82 से गुजरती हुई बिन्दु “ट” पर मिलती है।
- ट—ठ रेखा बिन्दु “ट” से आरंभ होकर ग्राम सेन्धोपारा के प्लाट संख्या 82, 81, 86, 87, 88, 90, 91, 92, 93, 94, 96, 97/1 से होकर ग्राम दुरती में प्रवेश कर प्लाट संख्या 1231, 1229, 1230, 1227, 1176, 1179, 1200, 1199, 1185, 650, 651, 632, 631, 604 से होती हुई बिन्दु “ठ” पर मिलती है।
- ठ—ड रेखा बिन्दु “ठ” से आरंभ होकर ग्राम दुरती के प्लाट संख्या 607, 601, 608, 609, 1414 से गुजरती हुई बिन्दु “ड” पर मिलती है।
- ड—ढ रेखा बिन्दु “ड” से आरंभ होकर ग्राम दुरती के प्लाट संख्या 1414 के पूर्वी सीमा से गुजरती हुई बिन्दु “ढ” पर मिलती है।
- ढ—ण रेखा बिन्दु “ढ” से आरंभ होकर ग्राम दुरती के प्लाट संख्या 1414, 1453, 1452, 1451, 1450, 1454, 1459, 1455, 1456, आरक्षित वन कम्पार्टमेंट संख्या 1681 से होकर ग्राम जरही में प्रवेश कर प्लाट संख्या 603, आरक्षित वन कम्पार्टमेंट संख्या 1681 से गुजरती हुई बिन्दु “ण” पर मिलती है।
- ण—त रेखा बिन्दु “ण” से आरंभ होकर आरक्षित वन कम्पार्टमेंट संख्या 1681 से होकर ग्राम जरही में प्रवेश कर प्लाट संख्या 605, 606, 607, 550, 545, 540, 541, 535, 538, 289 से गुजरती हुई बिन्दु “त” पर मिलती है।
- त—थ रेखा बिन्दु “त” से आरंभ होकर ग्राम जरही के प्लाट संख्या 289, 287, 283, 296, 283, 353, 355, 362, 363, 182, 175, 121, 105 से होती हुई बिन्दु “थ” पर मिलती है।
- थ—द रेखा बिन्दु “थ” से आरंभ होकर ग्राम जरही के प्लाट संख्या 105 के भागतः पश्चिमी सीमा से होती हुई बिन्दु “द” पर मिलती है।
- द—ध रेखा बिन्दु “द” से आरंभ होकर ग्राम कपसरा के प्लाट संख्या 902 के भागतः पश्चिमी सीमा से होती हुई बिन्दु “ध” पर मिलती है।
- ध—छ रेखा बिन्दु “ध” से आरंभ होकर ग्राम कपसरा के प्लाट संख्या 876/1, 900 से होकर 900, 888 के पश्चिमी, 889, 244 के दक्षिणी, 245 से होकर, 246, 321 के दक्षिणी, 320, 334, 335 के पूर्वी, 335 के दक्षिणी, 307, 337 से होकर, 337 के पश्चिमी, 353, 352, 354, 420 के दक्षिणी, 420 के पश्चिमी, उत्तरी और पूर्वी, 360, 359 से होकर, 356, 353 के उत्तरी, 358 के पूर्वी, 307, 310, 249, 248 से होकर, 248, 319, 321 के पूर्वी, 246 के उत्तरी, 243 के पश्चिमी, 243, 240, 239, 238, 232, 236 से होकर, 236, 232, 231 के पूर्वी, 895 के उत्तरी, 230, 902, 914, 912 से होकर, 911, 989 के उत्तरी, 989, 990, 991, 996 के पूर्वी, 997, 972, 970 के उत्तरी, 969, 968, 967 के पश्चिमी सीमा से होती हुई आरंभिक बिन्दु “छ” पर मिलती है।

ब्लाक—III :

- न—प रेखा बिन्दु “न” से आरंभ होकर ग्राम बरौधी के प्लाट संख्या 147, 140/3, 142, 139, 135, 118/6, 118/9, 119, 120 से गुजरती हुई बिन्दु “प” पर मिलती है।
- प—फ रेखा बिन्दु “प” से आरंभ होकर ग्राम बरौधी के प्लाट संख्या 120, 121/2, 123/2, 113 से गुजरती हुई बिन्दु “फ” पर मिलती है।
- फ—ब रेखा बिन्दु “फ” से आरंभ होकर ग्राम बरौधी के प्लाट संख्या 113, 60/9, 58, 60/2, 60/8, 56/1, 60/10, 51, 68, 50/1, 50/2, 50/3, 50/5, 49 से गुजरती हुई बिन्दु “ब” पर मिलती है।
- ब—न रेखा बिन्दु “ब” से आरंभ होकर ग्राम बरौधी के प्लाट संख्या 49 से होकर, 50/2, 50/1, 48/1, 53, 54, 60/1 के उत्तरी, 162/5, 144, 145, 147 से होती हुई आरंभिक बिन्दु “न” पर मिलती है।

[फा.सं. 43015/16/2011—पीआरआईडब्ल्यू—I]

दोमिनिक डुंगडुंग, अवर सचिव

New Delhi, the 30th December, 2014

S.O. 11.—Whereas, by the notification of the Government of India in the Ministry of Coal number S.O. 1822(E), dated the 20th February, 2014, issued under sub-section (1) of Section 7 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act) and published in the Gazette of India, Part II, Section 3, sub-section (ii), dated the 11th July, 2014, the Central Government gave notice of its intention to acquire 593.330 hectares (approximately) or 1466.12 acres (approximately) land as surface rights in or over such lands specified in the Schedule appended to that notification;

And, whereas, the competent authority in pursuance of Section 8 of the said Act has made his report to the Central Government;

And, whereas, the Central Government after considering the aforesaid report and after consulting the Government of Chhattishgarh, is satisfied that the lands measuring 593.330 hectares (approximately) or 1466.12 acres (approximately) as surface rights in or over such lands as described in Schedule appended hereto should be acquired;

Now therefore, in exercise of the powers conferred by sub-section (1) of Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957, the Central Government hereby declares that the land measuring 593.330 hectares (approximately) or 1466.12 acres (approximately) as surface rights in or over such lands as described in Schedule are hereby acquired.

The plan bearing number SECL/BSP/GM/(PLG)/LAND/ 457, dated the 7th August, 2014 of the area covered by this notification may be inspected in the Office of the Collector, District Surguja (Chhattishgarh) or in the office of the Coal Controller, 1, Council House Street, Kolkata-700001 or in the Office of the South Eastern Coalfield Limited (Revenue Section) Seepat Road, Bilaspur-495006 (Chhattishgarh).

SCHEDULE

Sendhopara-II Block (Mahamaya UG), Bhatgaon Area,
District-Surguja (Chhattishgarh).

Surface Rights :

A. Revenue Land :

Sl. No.	Name of village	Number of village	Name of Tahsil	Name of District	Area in hectares	Remarks
1.	Kapsara	15	Bhaiyathan	Surguja	129.320	Part
2.	Barudhi	16	Bhaiyathan	Surguja	8.280	Part
3.	Jarhi	20	Pratappur	Surguja	87.610	Part
4.	Sendhopara	21	Pratappur	Surguja	86.790	Part
5.	Durti	22	Pratappur	Surguja	91.230	Part

Total:-403.230 hectares (approximately) or 996.38 acres (approximately)

B. Revenue Forest Land (CJJ/BJJ):

Sl. No.	Name of village	Number of village	Name of Tahsil	Name of District	Area in hectares	Remarks
1.	Kapsara	15	Bhaiyathan	Surguja	7.520	Part
2.	Barudhi	16	Bhaiyathan	Surguja	0.600	Part
3.	Jarhi	20	Pratappur	Surguja	31.910	Part
4.	Sendhopara	21	Pratappur	Surguja	5.830	Part
5.	Durti	22	Pratappur	Surguja	72.950	Part

Total:-118.810 hectares (approximately) or 293.58 acres (approximately)

C. Reserve Forest Land:

Sl. No.	Compartment number.	Sub Division	Division	Area in hectares	Remarks
1.	1681(P)	Bhaiyathan	South Surguja	71.290	Part

Total:-71.290 hectares (approximately) or 176.16 acres (approximately)

Grand Total : (A+B+C)= 593.330 hectares (approximately) or 1466.12 acres (approximately)

1. Plot numbers to be acquired in village Kapsara(Part): 230 to 232, 236(P), 239 to 246, 248, 249, 307, 314 to 321, 334, 335, 337, 352 to 356, 359, 360, 420, 517, 518, 520 to 525, 528, 529(P), 530 to 535, 542 to 563, 710 to 713, 732 to 740, 743 to 745, 747 to 754, 757 to 772, 774(P), 776, 876, 888 to 912, 914, 967 to 972, 989 to 1246.

2. Plot numbers to be acquired in village Barudhi(Part): 48(P) to 51(P), 53 to 55, 56(P), 57, 58(P), 60(P), 68(P), 113(P), 115 to 117, 118(P) to 121(P), 123(P), 135(P), 139(P), 140(P), 142(P), 143, 144, 145(P), 146, 147(P), 162(P).

3. Plot numbers to be acquired in village Jarhi (Part): 105(P), 106 to 174, 175(P), 182(P), 183 to 282, 283(P), 284 to 286, 287(P), 288, 289(P), 296(P), 353(P), 354, 355(P), 356 to 361, 362(P), 363(P), 511 to 537, 538(P), 540(P), 541(P), 542 to 548, 549(P), 550(P), 598 to 607.

4. Plot numbers to be acquired in village Sendhopara (Part): 1(P), 3(P), 8(P), 12(P), 13(P), 14(P), 15 to 25, 26(P), 30(P), 31(P), 33(P), 34 to 36, 81 to 88, 90 to 94, 96 to 99, 99/284, 100 to 283.

5. Plot numbers to be acquired in village Durti(Part): 601(P), 604(P), 605, 606, 607(P) to 609(P), 610 to 630, 631(P), 632(P), 633 to 649, 650(P), 651(P), 1176(P), 1179(P), 1185(P), 1186 to 1198, 1199(P), 1200(P), 1201 to 1228, 1229(P) to 1231(P), 1232 to 1413, 1414(P), 1415 to 1449, 1450(P) to 1456(P), 1449(P).

Boundary description :

BLOCK-I:

- A-B Line starts from point 'A' and passes along partly common boundary of villages Kapsara-Barudhi, through village Kapsara along southern boundary of plot number 710 and meets at point 'B'.
- B-C Line starts from point 'B' and passes through village Kapsara through plot number 713, 734, 732, 733, 739, 740, along western boundary of plot number 743, 745, through plot number 747, along southern boundary of plot number 563, southern and western boundary of plot number 528, through 529, along eastern boundary of plot number 523, 524, 525, southern boundary of plot number 525, western boundary of plot number 525, 524, 523, 520, through 518 and meets at point 'C'.
- C-D Line starts from point 'C' and passes through village Kapsara along northern boundary of plot number 517/1 and meets at point 'D'.
- D-E Line starts from point 'D' and passes through village Kapsara along eastern boundary of plot number 517/1, 517/2, 517/4, 531, 532, 533, 535, through 542 and meets at point 'E'.
- E-F-A Line starts from point 'E' and passes through village Kapsara along eastern boundary of plot number 542, northern boundary of plot number 543, 544, 545, 546, eastern boundary of plot number 547, 754, 757, point 'F', 763, through 764, 765, 770, 771, along northern, eastern and southern boundary of plot number 776, eastern boundary of plot number 772, northern and eastern boundary of plot number 774 and meets at starting point 'A'.

BLOCK-II:

- G-H Line starts from point 'G' and passes along partly common boundary of villages Kapsara-Sendhopara, through plot number 1/1, 1/2, 36 of village Sendhopara and meets at point 'H'.
- H-I Line starts from point 'H' and passes through village Sendhopara through plot number 3, 18 and meets at point 'I'.
- I-J Line starts from point 'I' and passes through village Sendhopara through plot number 18, 17/1, 12, 13, 14, 8, 30, 31, 33, along northern boundary of plot number 34/3, 35, 139, through 136/1 and meets at point 'J'.
- J-K Line starts from point 'J' and passes through village Sendhopara through plot number 136/1, 84, 83, 82 and meets at point 'K'.
- K-L Line starts from point 'H' and passes through village Sendhopara through plot number 82, 81, 86, 87, 88, 90, 91, 92, 93, 94, 96, 97/1 then enter and passes through village Durti through plot number 1231, 1229, 1230, 1227, 1176, 1179, 1200, 1199, 1185, 650, 651, 632, 631, 604 and meets at point 'L'.
- L-M Line starts from point 'L' and passes through village Durti through plot number 607, 601, 608, 609, 1414 and meets at point 'M'.
- M-N Line starts from point 'M' and passes through village Durti along eastern boundary of plot number 1414 and meets at point 'N'.

N-O	Line starts from point 'N' and passes through village Durti through plot number 1414, 1453, 1452, 1451, 1450, 1454, 1459, 1455, 1456, Reserve Forest Compartment number 1681 then enter and passes through village Jarhi through plot number 603, Reserve Forest Compartment number 1681 and meets at point 'O'.
O-P	Line starts from point 'O' and passes through Reserve Forest Compartment number 1681, through village Jarhi plot number 605, 606, 607, 550, 545, 540, 541, 535, 538, 289 and meets at point 'P'.
P-Q	Line starts from point 'P' and passes through village Jarhi through plot number 289, 287, 283, 296, 283, 353, 355, 362, 363, 182, 175, 121, 105 and meets at point 'Q'.
Q-R	Line starts from point 'Q' and passes through village Jarhi along partly western boundary of plot number 105 and meets at point 'R'.
R-S	Line starts from point 'R' and passes through village Kapsara along partly western boundary of plot number 902 and meets at point 'S'.
S-G	Line starts from point 'S' and passes through village Kapsara through plot number 876/1, 900, along western boundary of plot number 900, 888, southern boundary of plot number 889, 244, through 245, southern boundary of plot number 246, 321, eastern boundary of plot number 320, 334, 335, southern boundary of plot number 335, through 307, 337, western boundary of plot number 337, southern boundary of plot number 353, 352, 354, 420, western, northern and eastern boundary of plot number 420, through 360, 359, northern boundary of plot number 356, 353, eastern boundary of plot number 358, through 307, 310, 249, 248, eastern boundary of plot number 248, 319, 321, northern boundary of plot number 246, western boundary of plot number 243, through 243, 240, 239, 238, 232, 236, eastern boundary of plot number 236, 232, 231, northern boundary of plot number 895, through 230, 902, 914, 912, northern boundary of plot number 911, 989, eastern boundary of plot number 989, 990, 991, 996, northern boundary of plot number 997, 972, 970, western boundary of plot number 969, 968, 967 and meets at starting point 'G'.

BLOCK-III:

T-U	Line starts from point 'T' and passes through village Barudhi through plot number 147, 140/3, 142, 139, 135, 118/6, 118/9, 119, 120 and meets at point 'U'.
U-V	Line starts from point 'U' and passes through village Barudhi through plot number 120, 121/2, 123/2, 113 and meets at point 'V'.
V-W	Line starts from point 'V' and passes through village Barudhi through plot number 113, 60/9, 58, 60/2, 60/8, 56/1, 60/10, 51, 68, 50/1, 50/2, 50/3, 50/5, 49 and meets at point 'W'.
W-T	Line starts from point 'W' and passes through village Barudhi through plot number 49, along northern boundary of plot number 50/2, 50/1, 48/1, 53, 54, 60/1, through 162/5, 144, 145, 147 and meets at starting point 'T'.

[F.No. 43015/16/2011-PRIW-I]

DOMINIC DUNG DUNG, Under Secy.

नई दिल्ली, 30 दिसम्बर, 2014

का.आ. 12.—केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 की धारा 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) के अधीन भारत सरकार ने कोयला मंत्रालय के द्वारा जारी की गई अधिसूचना संख्यांक का. आ. 451(अ), तारीख 17 अक्टूबर, 2012, जो भारत के राजपत्र, भाग II, खण्ड 3, उप-खण्ड (ii), तारीख 25 फरवरी, 2013 में प्रकाशित की गई थी, उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में जिसका माप 184.94 हेक्टर (लगभग) या 457.00 एकड़ (लगभग) है;

और केन्द्रीय सरकार का यह समाधान हो गया है, कि इस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट उक्त भूमि के भाग में कोयला प्राप्य है;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम, 1957 की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इससे संलग्न अनुसूची में वर्णित 148.34 हेक्टर (लगभग) या 366.54 एकड़ (लगभग) माप वाली भूमि में या उस पर के सभी अधिकार के अर्जन करने की, अपने आषय की सूचना देती है ;

क्रं. सं.	ग्राम का नाम	पटवारी सर्किल सं.	तहसील	जिला	क्षेत्र (हेक्टर में)			कुल	टिप्पणियां
					निजी	सरकारी	वन		
1.	गोंडेगांव	13	पारषिवनी	नागपुर	37.02	1.87	—	38.89	भाग
2.	वराड़ा	14	पारषिवनी	नागपुर	65.18	2.24	—	67.42	भाग
कुल :					102.20	4.11	—	106.31	—
कुल क्षेत्र : 106.31 हेक्टर (लगभग) या 262.69 एकड़ (लगभग)									

ग्राम गोंडेगांव में अर्जित किए जाने वाले प्लॉट संख्यांक :

102/1क/1— 102/1 क /2— 102/1 क /3— 102/1ख/1— 102/1ख/2— 102/1ख/3— 102/2— 102/3, 103, 104/1— 104/2, 105/1— 105/2, 106/1— 106/2— 106/3, 107, 108/1— 108/2— 108/3, 109/1— 109/2— 109/3, 110/1— 110/2— 110/3— 110/4— 110/5, 111/1— 111/2, 112, 113 (ग्राम पंचायत, गोंडेगांव), 133, 134, 137/1— 137/2, 138, सड़क ।

ग्राम वराड़ा में अर्जित किए जाने वाले प्लॉट संख्यांक :

210/1— 210/2, 211, 212, 213, 214, 215, 216, 217, 218/1— 218/2, 221, 227, 228/1— 228/2, 242, 244, 245, 246, 247, 248, 249, 250, 251, 252/1क, 252/1ख, 252/2, 253/1— 253/2, 254/1— 254/2, 255/1— 255/2, 256, 257, 258, 259, 260/1— 260/2क— 260/2ख, 261, 262, 263/1— 263/2क— 263/2ख, 264 (भाग), 267/1— 267/2, 268/1क— 268/1ख— 268/2क— 268/2ख— 268/2ग, 269/1— 269/2— 269/3— 269/4, 270/1क/1— 270/1क/2— 270/1ख— 270/2, 271/1— 271/2— 271/3, 272/1— 272/2, 273, 275, 276, 305/1— 305/2, 337 (भाग), 347, 348, 374, सड़क ।

सीमा वर्णन :

क — ख : रेखा, ग्राम वराड़ा में बिन्दु 'क' से आरंभ होती है और प्लॉट संख्यांक 276, 275 की बाह्य सीमा से लगकर गुजरती है फिर सड़क पार करती है । पुनः प्लॉट संख्या 273 की बाह्य सीमा से लगकर गुजरती है फिर पुनः सड़क पार करती है और प्लॉट संख्यांक 305/2, 305/1 की बाह्य सीमा से लगकर गुजरती है और बिन्दु 'क' पर मिलती है ।

ख — ग : रेखा, प्लॉट संख्यांक 267/1— 267/2, 374, 337 की बाह्य सीमा से लगकर गुजरती है फिर रेखा प्लॉट संख्यांक 264, 337 से होकर गुजरती है, फिर रेखा प्लॉट संख्यांक 263/2क— 263/2ख की बाह्य सीमा से लगकर गुजरती है और सड़क पार करती है फिर रेखा पुनः प्लॉट संख्यांक 244, 242, 228/1— 228/2, 227, 221 की बाह्य सीमा से लगकर गुजरती है और बिन्दु 'ग' पर मिलती है ।

ग — घ : रेखा, प्लॉट संख्यांक 271, 218/1— 218/2, 215, 210/1— 210/2 की बाह्य सीमा से लगकर गुजरती है फिर ग्राम वराड़ा और ग्राम गोंडेगांव की सम्मिलित ग्राम सीमा को पार करती है फिर रेखा ग्राम गोंडेगांव से प्लॉट संख्यांक 106/1— 106/2— 106/3, 107, 108/1— 108/2— 108/3, 109/1— 109/2— 109/3, की बाह्य सीमा से लगकर गुजरती है फिर सड़क पार करती है और प्लॉट संख्या 138 की बाह्य सीमा पर बिन्दु 'घ' पर मिलती है ।

घ — ड : रेखा, प्लॉट संख्यांक 137/1— 137/2, 134, 133 की बाह्य सीमा से लगकर गुजरती है फिर सड़क पार करती है और प्लॉट संख्या 112 पर बिन्दु 'ड' पर मिलती है ।

ड — च : रेखा, प्लॉट संख्यांक 113, 111/1— 111/2, 102/1क/1— 102/1क/2— 102/1क/3— 102/1ख/1— 102/1ख/2— 102/1ख/3— 102/2— 102/3 की बाह्य सीमा से लगकर गुजरती है और बिन्दु 'च' पर मिलती है ।

च — क : रेखा, सड़क पार करती है फिर रेखा ग्राम गोंडेगांव एवं ग्राम वराड़ा की सम्मिलित ग्राम सीमा से लगकर, उसी तरह प्लॉट संख्यांक 256, 270/2, 270/1क/1— 270/1क/2— 270/1ख, 271/1— 271/2— 271/3, 276 की बाह्य सीमा से लगकर गुजरती है और आरंभिक बिन्दु 'क' पर मिलती है ।

'भाग - 2'

क्रं. सं.	ग्राम का नाम	पटवारी सर्किल सं.	तहसील	जिला	क्षेत्र (हेक्टर में)			कुल	टिप्पणियां
					निजी	सरकारी	वन		
1	टेकाड़ी	14	पारषिवनी	नागपुर	10.85	—	—	10.85	भाग
			कुल :	10.85	—	—	10.85	—	

कुल क्षेत्र : 10.85 हेक्टर (लगभग) या 26.81 एकड़ (लगभग)

ग्राम टेकाड़ी में अर्जित किए जाने वाले प्लॉट संख्यांक :

474/1— 474/2, 484/1— 484/2— 484/3, 485/1— 485/2— 485/3— 485/4, 486, 487/1— 487/2, 488/1— 488/2, 489.

सीमा वर्णन :

छ-ज-झ-छ : रेखा, ग्राम टेकाड़ी में बिन्दु 'छ' से आरंभ होती है और बिन्दु 'ज' - 'झ' के पास से गुजरती हुई प्लॉट संख्यांक 474 / 1- 474 / 2, 486, 485 / 1- 485 / 2- 485 / 3- 485 / 4, 484 / 1- 484 / 2- 484 / 3 की बाह्य सीमा से लगकर गुजरती है फिर पुनः प्लॉट संख्यांक 485 / 1- 485 / 2- 485 / 3- 485 / 4, 489, 488 / 1- 488 / 2, 487 / 1- 487 / 2, 486 की बाह्य सीमा से लगकर गुजरती है और आरंभिक बिन्दु 'छ' पर मिलती है ।

‘भाग - 3’

क्रं. सं.	ग्राम का नाम	पटवारी सर्किल सं.	तहसील	जिला	क्षेत्र (हेक्टर में)			कुल	टिप्पणियां
					निजी	सरकारी	वन		
1	टेकाड़ी	14	पारषिवनी	नागपुर	2.56	8.27	—	10.83	भाग
कुल :					10.83	—	—	10.83	—

कुल क्षेत्र : 10.83 हेक्टर (लगभग) या 26.76 एकड़ (लगभग)

ग्राम टेकाड़ी में अर्जित किए जाने वाले प्लॉट संख्यांक :

611 (नञ्जुल), 612, 613 (ग्राम पंचायत, टेकाड़ी), सड़क ।

सीमा वर्णन :

ज-ट-ठ-ज : रेखा, ग्राम टेकाड़ी में बिन्दु 'ज' से आरंभ होती है और बिन्दु 'ट'—'ठ' के पास से गुजरती हुई प्लॉट संख्यांक 613 (सरकारी), 612, 611 (सरकारी) की बाह्य सीमा से लगकर गुजरती है फिर रेखा प्लॉट संख्यांक 612, 613 (सरकारी) की बाह्य सीमा से लगकर गुजरती है और आरंभिक बिन्दु 'ज' पर मिलती है ।

‘भाग - 4’

क्रं. सं.	ग्राम का नाम	पटवारी सर्किल सं.	तहसील	जिला	क्षेत्र (हेक्टर में)			कुल	टिप्पणियां
					निजी	सरकारी	वन		
1	टेकाड़ी	14	पारषिवनी	नागपुर	17.35	—	—	17.35	भाग
कुल :					17.35	—	—	17.35	—

कुल क्षेत्र : 17.35 हेक्टर (लगभग) या 42.87 एकड़ (लगभग)

ग्राम टेकाड़ी में अर्जित किए जाने वाले प्लॉट संख्यांक :

599 / 1- 599 / 2, 601 / 1- 601 / 2, 602, 608 / 1- 608 / 2- 608 / 3, 674.

सीमा वर्णन :

ड-ढ़-ण-त-ड : रेखा ग्राम टेकाड़ी में बिन्दु 'ड' से आरंभ होती है और बिन्दु 'ढ़'—'ण'—'त' के पास से गुजरती हुई प्लॉट संख्यांक 674, 608 / 1- 608 / 2- 608 / 3, 602, 599 / 1- 599 / 2, 601 / 1- 601 / 2 की बाह्य सीमा से लगकर गुजरती है फिर रेखा प्लॉट संख्या 674 की बाह्य सीमा से लगकर गुजरती है और आरंभिक बिन्दु 'ड' पर मिलती है ।

‘भाग - 5’

क्रं. सं.	ग्राम का नाम	पटवारी सर्किल सं.	तहसील	जिला	क्षेत्र (हेक्टर में)			कुल	टिप्पणियां
					निजी	सरकारी	वन		
1	पिपरी (कन्हान)	15	पारषिवनी	नागपुर	3.00	—	—	3.00	भाग
कुल :					3.00	—	—	3.00	—

कुल क्षेत्र : 3.00 हेक्टर (लगभग) या 7.41 एकड़ (लगभग)

ग्राम टेकाड़ी में अर्जित किए जाने वाले प्लॉट संख्यांक :

50/1— 50/2— 50/3— 50/4— 50/5.

सीमा वर्णन :

थ—द—ध—थ : रेखा ग्राम पीपरी (कन्हान) में बिन्दु 'थ' से आरंभ होती है और बिन्दु 'द'—'ध' के पास से गुजरती हुई प्लॉट संख्यांक 50/1— 50/2— 50/3— 50/4— 50/5 की बाह्य सीमा से लगकर गुजरती है और आरंभिक बिन्दु 'थ' पर मिलती है ।

भाग '1' + भाग '2' + भाग '3' + भाग '4' + भाग '5' = कुल क्षेत्र

106.31+10.85+10.83+17.35+3.00 = 148.34 हेक्टर (लगभग) या

262.69+26.81+26.76+42.87+7.41 = 366.54 एकड़ (लगभग)

[फा. सं. 43015/8/2012 — पीआरआईडब्ल्यू — I]

दोमिनिक डुंगडुंग, अवर सचिव

New Delhi, the 30th December, 2014

S. O. 12.—Whereas by the notification of the Government of India in the Ministry of Coal number S. O. 451(E), dated the 17th October, 2012, issued under Sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act) and published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 25th February, 2013, the Central Government gave notice of its intention to prospect for coal in 184.94 hectares (approximately) or 457.00 acres (approximately) of the land in the locality specified in the Schedule annexed to that notification ;

And whereas the Central Government is satisfied that coal is obtainable in a part of the said lands prescribed in the Schedule appended to this notification ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire all rights in or over the land measuring 148.34 hectares (approximately) or 366.54 acres (approximately) described in the Schedule appended hereto.

Note 1:— The plan bearing number C-1(E)III/FR/908-0814, dated the 8th August, 2014 of the area covered by this notification may be inspected in the office of the Collector, Nagpur (Maharashtra) or in the office of the Coal Controller, 1, Council House Street, Kolkata (Pin - 700 001) or in the office of the General Manager, Western Coalfields Limited (Revenue Department), Coal Estate, Civil Lines, Nagpur – 440 001 (Maharashtra).

Note 2:— Attention is hereby invited to the provisions of Section 8 of the aforesaid Act which provides as follows :-

Objections to acquisition.-

- 8 (1) Any person interested in any land in respect of which a notification under Section 7 has been issued, may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or of any rights in or over such land.

Explanation :—

- (1) It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operations in the land for the production of coal and that such operations should not be undertaken by the Central Government or by any other person.
- (2) Every objection under sub-section (1) shall be made to the competent authority in writing, and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under sub-section (1) of Section 7 or of rights in or over such land, or make different reports in respect of different parcels of such land or of rights in or over such land, to the Central Government, containing his recommendations on the objections, together with the record of proceedings held by him, for the decision of that Government.

- (3) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act.

Note 3:— The Coal Controller, 1, Council House Street, Kolkata-700 001 has been appointed by the Central Government as the competent authority under Section 3 of the said Act, vide notification number S. O. 2519 dated the 27th May, 1983, published in Part- II, Section 3, Sub-section (ii) of the Gazette of India, dated the 11th June, 1983.

SCHEDULE

KAMPTEE DEEP OPEN CAST MINE

NAGPUR AREA

DISTRICT NAGPUR (MAHARASHTRA)

“ PART – 1 ”

(Plan bearing number C-1(E)III/FR/908-0814, dated the 8th August, 2014)

All Rights :

Sl. No.	Name of Village	Patwari circle number	Tahsil	District	Area (In hectares) Tenancy Government Forest			Total	Remarks
1.	Gondegaon	13	Parseoni	Nagpur	37.02	1.87	-	38.89	Part
2.	Warada	14	Parseoni	Nagpur	65.18	2.24	-	67.42	Part
TOTAL :					102.20	4.11	-	106.31	

Total area : 106.31 hectares (approximately) or 262.69 acres (approximately)

Plot numbers to be acquired in village Gondegaon :

102/1A/1- 102/1A/2- 102/1A/3- 102/1B/1- 102/1B/2- 102/1B/3- 102/2- 102/3, 103, 104/1- 104/2, 105/1- 105/2, 106/1- 106/2- 106/3, 107, 108/1- 108/2- 108/3, 109/1- 109/2- 109/3, 110/1- 110/2- 110/3- 110/4- 110/5, 111/1- 111/2, 112, 113 (Gram Panchayat, Gondegaon), 133, 134, 137/1- 137/2, 138, Road.

Plot numbers to be acquired in village Warada :

210/1- 210/2, 211, 212, 213, 214, 215, 216, 217, 218/1- 218/2, 221, 227, 228/1- 228/2, 242, 244, 245, 246, 247, 248, 249, 250, 251, 252/1A, 252/1B, 252/2, 253/1- 253/2, 254/1- 254/2, 255/1- 255/2, 256, 257, 258, 259, 260/1- 260/2A- 260/2B, 261, 262, 263/1- 263/2A- 263/2B, 264 (Part), 267/1- 267/2, 268/1A- 268/1B- 268/2A- 268/2B- 268/2C, 269/1- 269/2- 269/3- 269/4, 270/1A/ 1- 270/1A/2- 270/1B- 270/2, 271/1- 271/2- 271/3, 272/1- 272/2, 273, 275, 276, 305/1- 305/2, 337 (Part), 347, 348, 374, Road.

Boundary description :

A – B : Line starts from Point ‘A’ in village Warada and passes along the outer boundary of plot numbers 276, 275, then crosses road, again passes along the outer boundary of plot number 273, then again crosses road, and passes along the outer boundary of plot numbers 305/2, 305/1 and meets at Point ‘B’.

B – C : Line passes along the plot numbers 267/1- 267/2, 374, 337, then line passes through plot numbers 264, 337, then line passes along the outer boundary of plot numbers 263/2A- 263/2B, crosses road, then line again passes along the outer boundary of plot numbers 244, 242, 228/1- 228/2, 227, 221 and meets at Point ‘C’.

- C – D: Line passes along the outer boundary of plot numbers 271, 218/1- 218/2, 215, 210/1- 210/2, then crosses common village boundary of villages Warada and Gondegaon, then line passes through village Gondegaon along the outer boundary of plot numbers 106/1- 106/2- 106/3, 107, 108/1- 108/2- 108/3, 109/1- 109/2- 109/3, then crosses road and meets at Point ‘D’ on outer boundary of plot number 138.
- D – E: Line passes along the outer boundary of plot numbers 137/1- 137/2, 134, 133, then crosses road and meets at Point ‘D’ on plot number 112.
- E – F: Line passes along the outer boundary of plot numbers 113, 111/1- 111/2, 102/1A/1- 102/1A/2- 102/1A/3- 102/1B/1- 102/1B/2- 102/1B/3- 102/2- 102/3 and meets at Point ‘F’ on common village boundary of villages Gondegaon and Warada.
- F – A: Line crosses road, then line passes along the common village boundary of villages Gondegaon and Warada as well as the outer boundary of plot numbers 256, 270/2, 270/1A/1- 270/1A/2- 270/1B, 271/1- 271/2- 271/3, 276 and meets at starting Point ‘A’.

“ PART – 2 ”

Sl. No.	Name of Village	Patwari circle number	Tahsil	District	Area (In hectares)			Total	Remarks
					Tenancy	Government	Forest		
1.	Tekadi	14	Parseoni	Nagpur	10.85	-	-	10.85	Part
TOTAL :					10.85	-	-	10.85	-

Total area : 10.85 hectares (approximately) or 26.81 acres (approximately)

Plot numbers to be acquired in village Tekadi :

474/1- 474/2, 484/1- 484/2- 484/3, 485/1- 485/2- 485/3- 485/4, 486, 487/1- 487/2, 488/1- 488/2, 489.

Boundary description :

G-H-I-G: Line starts from Point ‘G’ in village Tekadi and passes nearby Point ‘H’ – ‘I’ along the outer boundary of plot numbers 474/1- 474/2, 486, 485/1- 485/2- 485/3- 485/4, 484/1- 484/2- 484/3, then again 485/1- 485/2- 485/3- 485/4, 489, 488/1- 488/2, 487/1- 487/2, 486 and meets at starting Point ‘G’.

“ PART – 3 “

Sl. No.	Name of Village	Patwari circle number	Tahsil	District	Area (In hectares)			Total	Remarks
					Tenancy	Government	Forest		
1.	Tekadi	14	Parseoni	Nagpur	2.56	8.27	-	10.83	Part
TOTAL :					2.56	8.27	-	10.83	-

Total area : 10.83 hectares (approximately) or 26.76 acres (approximately)

Plot numbers to be acquired in village Tekadi :

611 (Nazul), 612, 613 (Gram Panchayat, Tekadi), Road.

Boundary description :

J-K-L-J: Line passes through village Tekadi and passes nearby Point 'K' – 'L' along the outer boundary of plot numbers 613 (Government), 612, 611 (Government), line again passes along the outer boundary of plot numbers 612, 613 (Government) and meets at starting Point 'J'.

“ PART – 4 ”

Sl. No.	Name of Village	Patwari circle number	Tahsil	District	Area (In hectares) Tenancy Government Forest			Total	Remarks
1.	Tekadi	14	Parseoni	Nagpur	17.35	-	-	17.35	Part
TOTAL :					17.35	-	-	17.35	-

Total area : 17.35 hectares (approximately) or 42.87 acres (approximately)

Plot numbers to be acquired in village Tekadi :

599/1- 599/2, 601/1- 601/2, 602, 608/1- 608/2- 608/3, 674.

Boundary description :

M-N-O-P-M: Line passes through village Tekadi and passes nearby Point 'N' – 'O' – 'P' along the outer boundary of plot numbers 674, 608/1- 608/2- 608/3, 602, 599/1- 599/2, 601/1- 601/2, line again passes along the outer boundary of plot number 674 and meets at starting Point 'M'.

“ PART – 5 ”

Sl. No.	Name of Village	Patwari circle number	Tahsil	District	Area (In hectares) Tenancy Government Forest			Total	Remarks
1.	Pipri (Kanhani)	15	Parseoni	Nagpur	3.00	-	-	3.00	Part
TOTAL :					3.00	-	-	3.00	-

Total area : 3.00 hectares (approximately) or 7.41 acres (approximately)

Plot numbers to be acquired in village Pipri (Kanhani) :

50/1- 50/2- 50/3- 50/4- 50/5.

Boundary description :

Q-R-S-Q: Line passes through village Pipri (Kanhani) and passes nearby Point 'R' – 'S' along the outer boundary of plot numbers 50/1- 50/2- 50/3- 50/4- 50/5 and meets at starting Point 'Q'.

Part '1' + Part '2' + Part '3' + Part '4' + Part '5' = Total Area

106.31 + 10.85 + 10.83 + 17.35 + 3.00 = 148.34 hectares (approximately) or

262.69 + 26.81 + 26.76 + 42.87 + 7.41 = 366.54 acres (approximately)

[F. No. 43015/8/2012- PRIW - I]

DOMINIC DUNG DUNG, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 23 दिसम्बर, 2014

का.आ. 13.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड, पटना के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2 धनबाद के पंचाट (संदर्भ संख्या 189/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-40011/28/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 23rd December, 2014

S.O. 13.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 189/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Ltd., Patna and their workmen, which was received by the Central Government on 22/12/2014.

[No. L-40011/28/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO.2),
AT DHANBAD**

PRESENT : Shri KISHORI RAM, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D.Act., 1947.

REFERENCE NO. 189 OF 2013.**PARTIES :**

The President,
BSNL Casual Shramik Sangh,
Dulhin Bazar Belhourri, Patna, Bihar
Vs.

Chief General Manager,
Bharat Sanchar Nigam Ltd.,
Patna Telecom Circle, Patna.

Ministry's Order No L-40011/28/2013-IR(DU) dt. 06.08.2013

APPEARANCES :

On behalf of the workman/: None.
Union

On behalf of the : Mr. Sushil Prasad
Management Ld. Adv.

State : Bihar Industry : Telecom

Dhanbad, the 13th November, 2014**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10 (1) (d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No L-40011/28/2013-IR(DU) dt. 06.08.2013.

SCHEDULE

“Whether the action of the management of Bharat Sanchar Nigam Ltd., Patna, in terminating the services of Shri Ranjeet Kumar w.e.f. 01.02.2012 is legal and justified? To what relief he workman concerned is entitled to?”

2. Neither the Union Representative for the BSNL Casual Sharmik Sangh nor workman Ranjeet Kumar appeared nor any written statement with any documents of the workman filed on his behalf. Mr. Sushil Prasad, the Ld. Advocate for the OP/Management is also absent.

On perusal of the case record, it is evident that despite three Regd. notices dt. 30.1.2014, 11.6.2014 and 24.09.2014 having been issued to the President of the aforesaid Sangh on his address as noted in the Reference itself, no written statement along with any documents filed on behalf of the Union Representative or the workman. The case has all along been pending from very beginning for it. The negligent conducts of the Union Representative as well as the workman show and indicate their reluctance in pursuing the case for its finality. It appears that there is no longer any Industrial dispute for adjudication. Under these circumstances, the case is closed as no I.D. and accordingly an order of “No Dispute” is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2014

का.आ. 14.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड, पटना के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, धनबाद के पंचाट (संदर्भ संख्या 193/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-40012/45/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 23rd December, 2014

S.O. 14.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 193/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers

in relation to the management of the Bharat Sanchar Nigam Ltd., and their workman, which was received by the Central Government on 22/12/2014.

[No.L-40012/45/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

PRESENT : Shri KISHORI RAM, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 193 OF 2013.

PARTIES :

Sri Ramakant Prasad.
S/o Laldeo Shah, Resident of Mohalla
Nawatola, PO: Shormpur,
PS: Janipur, Patna

Vs.

Chief General Manager,
Bharat Sanchar Nigam Ltd.,
Patna Telecom Circle,
Patna.

Ministry's Order No L-40012/45/2013-IR (DU) dt. 26.08.2013

APPEARANCES :

On behalf of the : None
workman/Union

On behalf of the : Mr. Sushil Prasad Ld. Adv.
Management

State : Bihar Industry : Telecom
Dhanbad, the 13th November, 2014

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10 (1) (d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No L-40012/45/2013-IR (DU) dt. 26.08.2013.

SCHEDULE

“Whether the action of the management Bharat Sanchar Nigam Ltd., Patna, in terminating the services of Shri Ramakant Prasad, workman is legal and justified? To what relief the workman concerned is entitled to?”

2. Neither workman Ramakant Prasad appeared nor his written statement along with his any documents filed on his behalf. Mr. Sushil Prasad, Ld. Advocate for OP/Management of BSNL, Patna is also absent.

On going through the case record, it stands clear that the case has been pending all along right from very beginning for filing a written statement with documents of the workman. But the workman did not appear nor filed it even after three Regd. Notices dt. 3.2.2014, 11.6.2014 and 24.09.2014 having been issued to the workman on his address as noted in the Reference itself. It appears that the workman by his willful negligence appears to be quite uninterested in pursuing his own case for his cause of alleged termination of his service. It appears to be no longer an Industrial Dispute. Hence, the case is closed as no I.D. and accordingly, an order of ‘No Dispute’ is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2014

का.आ. 15.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केन्द्रीय भण्डारण निगम, पंचकुला के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 चंडीगढ़ के पंचाट (संदर्भ संख्या 277/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-42012/171/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 23rd December, 2014

S.O. 15.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 277/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Central Warehousing Corporation, Panchkula, and their workman, which was received by the Central Government on 22/12/2014.

[No.L-42012/171/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-I, CHANDIGARH.

Case No. ID No. 277 of 2013, Reference no. L-42012/171/2013/IR(DU) dated 26.2.2014

Sh. Satta Ram
son of Shri Banarsi Ram,
Village & PO Mohal Khera,
Tehsil Narwana,
Jind (Haryana)

...Workman

Versus

New Delhi, the 23rd December, 2014

1. The Regional Manager,
Central Warehousing Corporation,
Chandigarh Region,
Bay No. 35-38, Sector -4,
Panchkula (Haryana) - 134112 ...Respondent

Appearances :

For the Workman : None.

For the Management : Shri N. K. Zakhmi .

AWARD

Passed on:- 15.12.2014

Government of India Ministry of Labour vide notification No.L-42012/171/2013/IR (DU) dated 26.2.2014 has referred the following dispute to this Tribunal for adjudication:

Term of Reference:

“Whether the action of the Management of Regional Manager, CWC, Panchkula in terminating the services of Sh. Satta Ram son of Shri Banarsi Ram workman of Narwana Depot is just and legal? If not, to what relief the workman is entitled to ?”

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already three opportunities have been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh.
15.12.2014

S. P. SINGH, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2014

का.आ. 16.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड, पटना के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, महाराष्ट्र, पुणे के पंचाट (संदर्भ संख्या आई. टी. 19/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-40011/26/2007-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

S.O. 16.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. I. T. 19 of 2007) of the Maharashtra at Pune, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Ltd., Pune and their workmen, which was received by the Central Government on 22/12/2014.

[No. L-40011/26/2007-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE**IN THE INDUSTRIAL TRIBUNAL
MAHARASHTRA AT PUNE****Reference (IT) No. 19/2007**

The Asstt. General Manager (Legal),
Bharat Sanchar Nigam Ltd.,
Bajirao Road, Pune - 411 002. ...First Party

AND

The Secretary,
BSNL Mazdoor Sangh,
185, Shaniwar Peth,
Pune - 411 030. ...Second Party

CORAM:

Shri D. H. DESHMUKH, Presiding Officer

Appearances :

Mr. Khandekar, Advocate for First Party

Mr. R. P. Shaligram, Advocate for Second Party

AWARD

(Dated : 07.07.2014)

This is a reference made by Government of India, Ministry of Labour, New Delhi. The demand is for regularisation of the services of the concerned workmen who were allegedly working in the canteen at CTO, Pune. The reference is, as to whether the said demand is legal or justified, and if yes, to what relief the workmen are entitled to and from which date. The reference order makes it clear that the demand was made by BSNL Mazdoor Sangh, a trade union.

2. The statement of claim Exh.U-8, has been submitted by the seven concerned workmen whose names, designation and last drawn wages are mentioned in Annexure-A to the statement of claim. The concerned workmen have contended that they are the members of the BSNL Mazdoor Sangh, which is second party. The contention is that the Central Telegraph Office (hereinafter

referred as CTO) is situated near General Post Office, Pune, and there were about 550 employees of Telecom department working at that place. As a part of service condition, the canteen is run for those employees since 1964. The canteen was run by Telecom Employees Co-op. Society, and in the name and style of Telecom Employees Co-op. Canteen. There were 17 workmen working in the said canteen, who were called as canteen employees. It is contended that in the year 1991, the Hon'ble Supreme Court vide its order dated 01.10.1991 had directed the department of Telecom, to convert all such canteens into departmental canteen. Accordingly, the Telecom department, in 1994 decided to convert all such canteens in Pune, which were run by the employees society into departmental canteen and to regularise the services of the concerned workmen as employees of Telecom department. As per the judgment, in 1994 two such canteens situated at Bajirao Road, Pune and Mahadji Shinde Telephone Exchange, Pune were converted into departmental canteen and the services of the employees were regularised as employees of Telecom department. However, the CTO canteen was decided to be converted in the year 1999. The department of Telecom which is now known as Bharat Sanchar Nigam Ltd., (BSNL), decided to convert the CTO canteen into departmental canteen and to regularise the services of the canteen employees. The process was started in May 2001, and at that time there were 17 employees. All the 17 employees were required to be regularised/absorbed. However, the first party department regularised the services of 10 employees, which was illegal and unjust. The contention is that the demand of the regularisation of the services of remaining 7 employees, who are the concerned workmen is legal, proper & justified. The workmen, therefore, want their regularisation as workmen of the first party department w.e.f. 10.06.2000, cost, as well as passing such order which may deemed necessary in the interest of justice.

3. The first party department, which is now Bharat Sanchar Nigam Ltd., has resisted the claim vide written statement Exh.C-3, denying all the adverse allegations. It is contended that there is no employer-employee relationship between the parties, and therefore, the reference is not maintainable. The statement of claim has been filed belatedly without seeking condonation of delay. The 7 concerned workmen are not members of the union, and as such they have no right to file this complaint/reference. It is contended that the said canteen was run by the Telecom Employees Co-op. Society Pune. The society was a separate legal entity duly registered. The society has not been impleaded as a party. The canteen was not set up by the departmental authorities. The workmen were not recruited by the first party. The Hon'ble Supreme Court has never directed to convert all such canteens into departmental canteens. It is contended that canteens which were converted were of different kind. It is contended that even though the society canteen was

not registered with the Director of Canteen. The Chief General Manager Maharashtra Telecom Circle, Mumbai, had appointed a committee to consider the issue of regularisation of employees of CTO canteen. The meeting was held on 16.02.2001 and report was submitted to the Chief General Manager, Mumbai. The Chief General Manager, accepted the report and directed to regularise the 15 employees who were working at CTO canteen prior to 01.10.1991. The committee observed that some persons were not in employment prior to 01.10.1991, and further documents produced in respect of 2 employees were doubtful. Out of 15 persons, 10 were appointed, the remaining 5 persons could not be appointed as they had left the job or resigned from the post. As per O.M. dated 22.06.1998, the vacancy which remained unfilled for a period of more than one year was to be treated as having lapsed.

The first party has contended, that at present there are no vacant posts. Then it is contended that the concerned workmen were working with the society. They were paid wages and they were controlled by the society, their services were terminated on account of closure of the canteen on 02.09.2002, and they were paid all the legal dues. The first party has also contended that the concerned workmen cannot claim a back door entry in the employment.

4. The issues are framed by my Id. Predecessor, and my findings thereon are as follows :-

ISSUES	FINDINGS
(1) Whether the demand of the second party union as referred in Schedule of Reference is legal and justified ?	Yes, partly;
(2) What Award ?	As per final award.

REASONS

5. The concerned workmen have adduced oral as well as, documentary evidence. The first party department has not led any oral evidence, but, has produced the copies of few documents. I have gone through the entire record including the case laws, notes of arguments of first party and have heard the submissions made by Shri R.P. Shaligram and Shri Khandekar, the learned counsels.

6. The concerned workmen have filed the affidavits by way of examination-in-chief, which are identical. In the evidence, the concerned workmen have stated specifically that they are the members of the second party union. The details stated in Annexure-A are true and correct. The union had raised the demand for regularisation of the concerned workmen who were working in CTO canteen, etc. The evidence indicates that at CTO canteen 17 employees were working including the concerned workmen. About 550 employees were working in the department at that place.

That canteen was run by the society of the employees. As per the judgment of the Hon'ble Supreme Court dated 01.10.1991, the first party department was directed to convert all such canteens into departmental canteen. In 1994, the department converted the two other canteens of Bajirao Road & Mahadji Shinde telephone exchange to departmental canteen, but not the CTO canteen. In the year 1999 the first party decided to convert the CTO canteen into the departmental canteen. The process started in May 2001, when the concerned workmen were also working. The first party, however, regularised only 10 employees w.e.f. 10.06.2000, which action was illegal and unjust. Then, it is stated that letter dated 15.02.2000 issued by Dy. General Manager Pune to Dy. General Manager, Mumbai of first party is produced, which supports the contention of the workmen. The names of the concerned workmen are mentioned in the said letter, etc. In cross-examination, the material evidence of the concerned workmen remained unshaken. The admissions indicate that the concerned workmen were working in the canteen without any appointment letter given by the Society. One Mr. Gole was the honorary secretary of the society. The termination letter was given in 2002. The appointment, as well as termination of services of the concerned workmen in 2002, was by society or canteen, and one workman admitted that the concerned workmen had decided to raise the present dispute. No document is produced to show the membership of the union. The workman A.N. Pirzade, does not know, whether there is vacant post or not. According to him, workmen should be accommodated anywhere. He admitted that his name was not recommended by Employment Exchange. The workman states in cross-examination that union raised the dispute. The Secretary and Chairman of society were Mr. Gole and Kanade respectively. The workman Surendra has stated that he has not filed any other case. He was working in the canteen since 1992. The documentary evidence of union membership is not produced. Nobody from the union attended this case. He does not know if union has authorised him in regard to this case. He denies that there is no vacant post in BSNL, but, has no information about vacancy. The workman Timoti also gave similar admissions, that nobody from union attended this case. He denies that there is no vacancy in BSNL. He also denies that canteen was not a service condition. He has no evidence in that regard. The other workmen have also given similar admissions. The workman Vijay Kamble admits, that Employment Exchange has not recommended his name. He joined in 1992. He was appointed by canteen Manager, etc.

7. The second party examined Mr. Baban Gole, who was secretary of the society. Baban Gole stated about the letter dated 15.05.1997 and accordingly, the decision to regularise the canteen employees etc. There were 17 employees. He submitted the list of 17 employees to regularise their services vide letter dated 31.12.1999. The

said letter is on record. Only 10 employees named were regularised. The first party regularised 5 other persons, but ignored the claim of 7 concerned workmen who were working in the canteen. There is no criteria, etc. Gole stated about the letter dated 31.12.1999 sent by him to BSNL. He deposed as to the documents at Exh.U-10A, Exh. U-20A & U-20B. The cross-examination indicate that Gole was secretary from 1998 to 2003. He denies that Sangh (union) is absent. DGM asked him to submit the list of employees. He does not know if acknowledgment of the letter produced is on record. The dates of appointment were taken from pay-register, the register is submitted to BSNL. He also does not know whether the names of the concerned workmen were recommended by the Employment Exchange, or if the post were advertised. He admits that on 16.02.2001, the department had constituted a committee to regularise the services of the canteen employees. He has stated about regularisation of the 10 employees. He does not know if two muster rolls were shown to the committee. Gole clarifies that 10 employees out of 17 employees were regularised, and 5 were brought by BSNL for regularisation. Gole could not tell about the sanctioned posts in the canteen. Gole has stated that canteen is the service condition in the BSNL, but he could not tell any rule as such. He was shown proceeding book of the society. The relevant page shown to him, according to Gole, does not bears his signature.

8. Mr. R. P. Shaligram, the learned counsel submitted that the concerned workmen were required to be regularised in service. Instead of taking 17 employees, only 10 employees were taken up and 5 were brought from outside and regularised. Exh.U-10A, U-22A & B and other documents were pointed out. The CTO canteen was not only for the Telegraph department, but for entire Telecom department situated at that place. The CTO canteen does not mean only telegraph office. In Telecom department the employees were working. Joining dates are not disputed. This is not a case of back door entry. There was a judgment of the Hon'ble Supreme Court, and decision was taken to absorb the employees in the services. The learned counsel prayed for grant of relief, etc. According to him the judgment in Umadevi & other cases are of no application.

9. Mr. Khandekar, the learned counsel for the first party, argued that union has not appeared. Regularisation requires, that the person should be in the employment. The reinstatement cannot be claimed. The Telegraph department was permanently closed in July 2013. The services of the employees have been terminated, and legal dues were also paid by the society in 2002. Therefore, the workmen have no locus standi to make the claim. The membership of union is not proved. Factum of termination is not disclosed. The canteen is not a part of service condition. The union has been absent. The concerned workmen have filed the statement of claim, but they are

not authorised. The statement of claim was filed belatedly. The claim is to regularise. The canteen was governed by the bye-laws of the society. The society staff cannot be treated at par with the employees of the department. No appointment letter was given, no selection procedure was followed, and there was no recommendation from the Employment Exchange. The regularisation would amount to giving back door entry, which is not permissible. According to the learned counsel the material date for regularisation was 01.10.1991 and other requirement is recruitment through procedural. A committee was constituted and the committee after considering everything recommended regularisation of 15 employees, out of them 2 employees expired, and 3 had left. However, that does not mean that other 5 are also required to be taken. As far as the employment is concerned all the eligible persons should get an opportunity, etc.

The learned counsel Mr. Khandekar, relied upon the judgments in *Union of India V/s. Subhaiah & Ors.*, (AIR-1996-SC-2890); *State of Karnataka & Ors V/s. KGSD Centeen Employees' Welfare Association*, (2006-1-SCC-567); *Secretary, State of Karnataka & Ors. V/s. Umadevi & ors.* (AIR-2006-SC-1806); *M.P. Housing Board V/s. Manoj Shrivastava*, [2006-(2)-SCC-702]; and *General Secretary, Van Shramik Sangh V/s. Director, Social Forestry, Maharashtra State & Ors.* [2009-(1)-Bom CR-589].

10. I have considered everything. The reference order indicates that demand of regularisation of the concerned workmen was made by the BSNL Mazdoor Sangh. The concerned workmen have stated on oath that they were members of that union. The documentary proof may not have been produced. It is also true that after reference was made to this Tribunal, the union did not attend or prosecute the reference by itself leading evidence, etc. However, the concerned workmen, after the reference is made at the instance of the union, cannot be allowed to be left helpless. Ultimately, the beneficiaries or the allegedly affected persons are the concerned workmen. The concerned workmen would naturally prosecute the reference further, so as to bring the dispute resolution/ adjudication to a logical end. I therefore, do not find any illegality in the concerned workmen signing the statement of claim, or giving evidence to establish their claim.

The important letter produced with Exh.U-10 is marked as Exh.U-10/A & it is dated 15.02.2000. The letter is written by the Dy.General Manager Pune, Telecom to Dy. General Manager, Mumbai, with reference to regularisation of services of CTO canteen employees. The names of the 17 employees and their posts are mentioned in the letter. The Dy. General Manager, who apparently was in the know of the facts of the case, had mentioned in the letter, that out of 17 named employees, Sr. No.1 to 14 were working since prior to 01.10.1991. The employee at sr.no.15 namely A. N. Pirzade, can also be considered for regularisation as per guidelines given in the letter dated 21.12.1998 by

sanctioning the post. A. N. Pirzade, is one of the 7 concerned workmen. Regarding Sr. No.16 & 17 David & Timoti (concerned workmen), the Dy. General Manager, stated that these 2 workmen had joined after 01.10.1991. However he recommended to accommodate these 2 workmen also. Now, in first 14 atleast 4 concerned workmen were covered. Surendra (Prakash) T. Detake (Table-Boy), Vijay B. Kamble (Mandaniwala), Yesu J. Mavad (Waiter) and Babu J. Surpugu (Tea Maker). If the letter of Dy. General Manager is to be believed and relied upon, the above 4 concerned workmen were entitled to regularisation.

11. The learned counsel for the second party have produced the documents with Exh.U-22, two important documents. One is letter dated 15.05.1997. The letter is circular issued to all the Circles/ Authorities of the department. In the letter there is reference to the judgment of the Hon'ble Supreme Court, wherein some directions were given for extending the benefits by the Government employer to the persons working in the canteens/tiffin rooms. The letter indicates that first party department had decided to extend such benefits to the employees of the unregistered canteen also, provided the canteen was set up before 01.10.1991, and secondly, the employees in the canteen were recruited in proper manner, and such recruitment was made on regular basis, etc. The other letter is Exh.U-22A, which is a letter dated 31.12.1999, addressed by Telecom Employees' Co-operative Canteen to the Divisional Engineer of the first party. The subject is regularisation of services of employees in the CTO canteen. The letter is signed by Chief Superintendent CTO of the first party, and also the honorary secretary of the Telecom Employees canteen i.e. Mr. Gole, who is examined. The letter gives the information about 17 employees working in the canteen which includes names of the concerned 7 workmen. Some of them were working since as far back as 1975.

12. The first party has produced the copies of some documents, which are neither admitted nor proved. However, I have gone through those documents also. The oral as well as documentary evidence goes to establish that the 7 concerned workmen were working in the canteen, and 4 of them were working prior to 01.10.1991. The workman A.N. Pirzade was working from 01.09.1997, David was working from 01.04.1998. Both of them were appointed in place of 2 other employees who had expired. The workman Timoti was appointed from 01.04.1998 in place of Shelar, who had resigned w.e.f. 09.10.1997. It is undisputed that the canteen in question was run for several years prior to 1991. The documents with Exh.U-22 & Exh.U-10A indicate clearly that canteen was running even prior to 01.10.1991. It is apparent that even according to the first party, 15 other employees working in the same canteen were regularised or absorbed. When those employees were appointed by canteen or society. The canteen was run by employees themselves, and therefore, requisition might

have not been sent to Employment Exchange. The first party has not shown that others who were absorbed were recommended by Employment Exchange or their initial appointments were made as per a particular procedure. In this case the judgment in Umadevi and other cases would really not come into play. The department had decided to regularise the canteen employees, and treat them as employees of the Telecom department. The benefits of departmental service was also decided to be given. The date 01.10.1991 was cut-off date, but in respect of setting up of the canteen. The said date was not relevant for the purpose of appointment, and therefore only the Dy. General Manager had recommended absorption of all the concerned workmen.

13. The fact that in the year 2002 the services of the 7 concerned workmen were terminated by the society is not of any consequence. The termination is not fatal to the claim. It is undisputed that 10 employees, out of 17 employees of the same canteen were absorbed or regularised in the departmental services w.e.f. 10.6.2000. The Exh.U-10A state names of the 7 concerned workmen and their posts. These 7 concerned workmen were also required to be regularised in the services of the Telecom department, which is now BSNL. There was no justification given in rejecting their claim. The demand for regularisation in service is on the basis of the judgment of the Hon'ble Supreme Court, and decision taken by higher authorities of the first party. On the basis of that judgment and departmental decision the demand as made is legal as well as justified. The termination of services was made by the society. However, the co-workers of the concerned workmen were regularised w.e.f. 10.06.2000. The delay in raising the dispute by the union or delay in filing the statement of claim is not sufficient to reject the entire claim. The concerned workmen want regularisation in the services of the first party w.e.f. 10.06.2000. The regularisation is nothing but absorption in regular service. The others who were absorbed must have been working and must have got wages and benefits at par with the departmental employees.

14. Initially, the reference was made by the union, and therefore, objection relating to absence of employer-employee relationship has no substance.

The services of concerned employees were terminated in 2002 there is no pleading or evidence that the union or the concerned workmen made efforts or agitated the claim before authority of the first party department till making of the reference. Upon regularisation, the concerned workmen would have got the wages and benefits of a regular employee. The first party has not led any evidence to show that there are no vacancies. In keeping with the decision taken by the first party itself, the regularisation in service ought to have been done in the year 2000. I am therefore, inclined to

grant relief regarding regularisation, which is nothing but absorption of concerned workmen in the service of the first party. The regularisation shall be w.e.f. 10.06.2000, meaning thereby that all the concerned workmen shall be deemed to be in the employment of the first party/erstwhile department w.e.f. 10.06.2000. Their wages/ salaries shall be fixed treating them to be holding different posts as mentioned in annexure-A as on 10.06.2000. However, the actual wages and other monetary benefits shall be payable from the date of reference i.e. 26.09.200, which may be treated as 01.10.2007 for the payment purpose. Needless to mention that absorption, regularisation and continuance in the employment shall be subject to the rules regarding superannuation/retirement etc. Having considered everything, I proceed to pass the following award.

AWARD

1. The reference is partly allowed.
2. The first party BSNL, Pune shall regularise the services of the 7 concerned workmen by absorbing them in the regular service w.e.f. 10.06.2000, and further the 7 workmen shall be paid wages and other benefits w.e.f. 01.10.2007 as said herein above.
3. No order as to costs.

Pune :

Dated : 07.07.2014

D. H. DESHMUKH, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2014

का.आ. 17.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सी. सी. एल., के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1 धनबाद के पंचाट (संदर्भ संख्या 51/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/12/2014 को प्राप्त हुआ था।

[सं. एल-20012/23/2006-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 23rd December, 2014

S.O. 17.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 51/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the the management of M/s. CCL, and their workmen, received by the Central Government on 23/12/2014.

[No. L-20012/23/2006-IR(CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO.1),
DHANBAD**

IN THE MATTER OF A REFERENCE
U/S 10(1) (D) (2A) OF I.D. ACT, 1947.

Ref. No. 51/2006

Employers in relation to the management of
Bokaro Colliery M/S BCCL

And

their workman

Present:—Sri RANJAN KUMAR SARAN, Presiding Officer

Appearances:

For the Employers : Sri D.K. Verma, Advocate

For the workman : Sri B.B. Pandey, Advocate

State : Jharkhand Industry : Coal.

Dated. 24/10/2014

AWARD

By Order No. L~20012/23/2006-IR (CM-I), dated 01/06/2006, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the demand of the Rastriya Colliery Mazdoor Sangh from the management of CCL Bokaro Colliery for regularization of Shri Ajay Kumar Singh, Driver Cat-V to the post of Mechanical Supervisor/Chargeman (Mechanical) is legal and justified? If so, to What relief is the concerned workmen entitled and from what date 1”

2 The case is received from the Ministry of Labour on 20.06.2006. After receipt of the reference, both parties are noticed. The workman files their written statement on 24.07.2006. Thereafter the management files their written statement-cum-rejoinder on 03.09.2007. Rejoinder and document also filed by the parties. Both side adduced one witness each their behalf. The management marked the document as M-1 & M-2, as well as the workman also marked document as Ext. W-1 & W-2.

3 The point involved in the reference is that the case as to whether the workman concerned can be regularized for the post of driver category V to Mechanical Supervisor

4 The workman claims for regularization as such. But the management submitted that as per cadre scheme a driver category V can be promoted to higher post i.e Driver category VI. But he can not be regularized as Mechanical Supervisor, which is manned by an Engineer. That fact also came in evidence of MW-1 & the documents i.e. cadre scheme.

5 Considering the facts and circumstances of this case, I hold that the demand of the Rastriya Colliery Mazdoor Sangh from the management of CCL Bokaro colliery for regularization of Shri Ajay Kumar Singh, Driver Cat- V to the post of Mechanical Supervisor/Chargeman (Mechanical) is not legal and justified, Hence he is not entitled to get any relief.

This is my award

R. K. SARAN, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2014

का.आ. 18.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी. सी. सी. एल., के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1 धनबाद के पंचाट (संदर्भ संख्या 187/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/12/2014 को प्राप्त हुआ था।

[सं. एल-20012/40/2000-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 23rd December, 2014

S.O. 18.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 187/2000) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of M/s. BCCL, and their workmen, received by the Central Government on 23/12/2014.

[No. L-20012/40/2000-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.1,
DHANBAD**

Reference: No. 187/2000

In the matter of reference U/S 10 (1) (d) (2A) of
I.D. Act, 1947

Employer in relation to the management of East
Katras Colliery M/S BCCL

AND

Their workmen

Present: Sri R. K. SARAN, Presiding Officer

Appearances:

For the Employers : Sri D.K. Verma

For the workman : None

State : Jharkhand : Industry- Coal

Dated- 16/10/2014

AWARD

By order No. L-20012/40/ 2000 IR (C-1)) dated 29/06/2000, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of East Katras Colliery of M/s. BCCL in dismissing the services of Md. Naseem, M/Loader P.No. 02886315 with effect from 26/07/97 is justified? If not, to what relief is the concerned workman entitled?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2014

का.आ. 19.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ई. सी. एल., के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1 धनबाद के पंचाट (संदर्भ संख्या 75/1992) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/12/2014 को प्राप्त हुआ था।

[सं. एल-20012/346/1991-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 23rd December, 2014

S.O. 19.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 75/1992) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of M/s. ECL, and their workmen, received by the Central Government on 23/12/2014.

[No. L-20012/346/1991-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.1,
DHANBAD**

Reference: No. 75/1992

In the matter of reference U/S 10 (1) (d) (2A)
of I.D. Act. 1947.

Employer in relation to the management of
Gopinathpur Colliery M/s.ECL

AND

Their workmen

Present : Sri R. K. SARAN, Presiding Officer.**Appearances :**

For the Employers : None

For the workman : None

State : Jharkhand. : Industry- Coal

Dated- 10/10/2014

AWARD

By order No. L-20012/346/ 1991 /IR (C-1)) dated 26/08/1992, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of M/s Eastern Coalfields Ltd., Nirsha Area in relation to their Gopinathpur Colliery in retiring Abdul Mia w.e.f. 09/07/1990 is justified? If not, to what relief the concerned workman is entitled?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2014

का.आ. 20.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, गोला बारूद फैक्ट्री, पुणे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण महाराष्ट्र, पुणे के पंचाट (संदर्भ संख्या आई. टी. 16/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-14012/26/2007-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 23rd December, 2014

S.O. 20.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Ref (I.T.) No. 16/2008) of the Industrial Tribunal Maharashtra at Pune, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the General Manager, Ammunition Factory, Pune and their workmen, which was received by the Central Government on 22/12/2014.

[No. L-14012/26/2007-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL, AT PUNE

Reference (IT) No. 16 of 2008

Between :

The General Manager
Ammunition Factory
Khadki,
Pune - 411 003.

...First Party

And

Shri Martin Samuel Salve
Address No. 1
Quarter No.66/06, Type (I)
Range Hills Estate, Khadki
Pune - 411 020.

Address No. 2
Near Lunkad Hospital,
Naik Chwal,
Mumbai Pune Road,
Dapodi,
Pune - 411 012.

...Second Party

CORAM : D. H. DESHMUKH, Presiding Officer.

Appearances :

Smt.Sandhya Londhe- Deshpande.Advocate for First Party.

Shri S. Solanki , Advocate for Second Party .

AWARD

(Date: 03-12-2014)

This is a reference made by Government of India, Ministry of Labour, New Delhi, for adjudication of industrial dispute between the General Manager, Ammunition Factory, Kirkee, Pune (the “First Party” for short), and Shri Martin Salve (the “Second Party” for short) The dispute pertains to compulsory retirement of second party w.e.f. 2-3-2006.

2. The second party union has contended that the first party is a factory where more than 5000 employees are working. The second party was employed as Sweeper (Safai Karmachari) w.e.f. 13-10-1998. The service record of the second party was clean. It is contended that the second party was not given any facilities, and there used to be discrimination on the basis of caste etc, and also some politics. The second party was given a charge-sheet, and an enquiry was conducted in haste. Then, it is contended that the second party had married in the year 1999, but his marital life was full of disturbances, and that led to some litigation in Family Court. Because of physical and mental problems, the second party began to remain absent. The second party was asked to retire voluntarily, stating that otherwise he would not get the legal dues. The second party has contended that he had to proceed on leave frequently, because of the dispute/quarrel with the wife and problems arising therefrom.

3. The second party was made to face the enquiry. In the year 2006 signatures of the second party were obtained without letting him understand anything. The second party has stated about voluntary retirement. Then it is contended that he has no other source of income, and he has a big family which is poor. The second party wants reinstatement with all benefits.

4. The first party has resisted the claim, denying all adverse allegations. According to the first party the establishment belongs to Central Government, and it is engaged In manufacturing of arms and ammunitions required for the Army, Air force, & Navy. The funds are provided by the Central Government. The activities of the first party are stated to be exclusively relating to safety and security of the country. The activities and the functions are inalienable and sovereign functions, and therefore, the establishment is not industry. Then, it is contended that Civil Service Rules are applicable, and therefore, this Court has got no jurisdiction.

5. The first party has contended that the statement of claim is mischievous, and there is suppression of facts. The contention about 5000 employees are working, is denied. It is also denied that the second party had worked for 7 1/2 years, or had completed 240 days every year. It is contended that the second party was punished on 4 occasions in the past for similar misconduct of unauthorized absence. The details are mentioned in the written statement. It is also denied that the second party was assured to be given any facility. The allegations of discrimination etc. are denied.

6. The first party has contended that the second party was charge-sheeted for unauthorized absence. The second party admitted the allegations in the charge-sheet. The guilt was proved, and therefore, he was punished by compulsory retirement, which action is legal and justified. It is denied that the second party has a family dependent

upon him. Father of the second party is getting pension, etc.

7. The issues and my findings thereon, are as follows :-

ISSUES	FINDINGS
1. Whether the First Party is an industry within the meaning of Section 2 (j) of I.D.Act ?	...Yes
2. Whether Second Party is a workman within the meaning of Section 2(s) of I.D.Act?	...Yes
3. Whether the action of the management of the General Manager, Ammunition Factory, in compulsorily retiring their workman Shri Martin Salve w.e.f. 2-3-2006 is legal and justified?	...Yes
3(A) Whether the enquiry is not fair & proper, & further whether the findings are not justified?	...Already decided
4. If not, to what relief the workman is entitled to ?	...No relief
5. What Award?	...As per final award.

REASONS

8. There is oral as well as the documentary evidence led. I have gone through the record, including the written argument, and have heard the submissions made.

The contention that the factory or establishment of the first party is not an industry, has not been substantiated by giving details or any evidence. The first party is. a factory where arms and ammunition are manufactured, may be exclusively for the defence. This particular objection does not appear to have been raised before the Conciliation officer or any time before the reference was made. It is common place that these days some requirements of the defence are met even from private sector, particularly by way of import. Manufacturing of arms by itself may not make the functions of the factory sovereign or inalienable. Similarly, the contention that the activities of the first party are exclusively relating to safety and security of the country, even if presumed to be true, may also not be sufficient to take the factory outside the purview of the definition of the term 'industry'. Issue No.1 is therefore, answered in the affirmative.

9. The second party was admittedly a sweeper or a Class IV employee or a person engaged for manual work, and therefore, he is a workman. Application of Civil Services Rules by itself, is not sufficient to take the factory or the second party, outside the scope of the definition of the terms "industry" and "workman" respectively.

10. After hearing both the sides, this Court had passed an order on 1-9-2014 on the Issue No.3A. The said issue was taken up first on request of the learned counsel for the first party, and by consent of the Advocate of the other side. On merits, this Court found that the unauthorized absence is an admitted fact, and therefore, the charges stood proved. This Court held that the second party understood the charges, and admitted the same repeatedly. In view of the admission, the first party did not think it necessary to conduct further enquiry. This Court finally observed that whatever enquiry was held, and whatever was found from the admissions on record i.e. about the allegation of the absence, cannot be said to be unjustified. In view of the order dt.1-9-2014 it has now to be said that the allegations and the charges are proved.

11. The charges levelled against the second party were that the second party stayed away from duty during 16-9-2005 to 28-9-2005 without prior sanction or intimation. He did not submit leave note etc. He reported for duty on 29-9-2005 without producing any documents. However, he was again found missing from the duties. He was continuously absent from 30-9-2005 till the date of charge-sheet i.e. 19-1-2006. The charge was willful neglect of duty and lack of devotion to duty etc. In the charge-sheet, there is mention about previous misconduct, and the punishment imposed. In Article III on Page 2, the previous record is mentioned, but it's mention is not of any consequence.

12. In view of the order passed after hearing both the sides, now, the second party cannot be heard to say that the allegations are not proved. The submissions that Marathi translation was not given, the enquiry was conducted hastily, the second party was mentally disturbed. There were personal problems etc. stated in the argument, are not now relevant. The submission that the authority was predetermined or partial, is also baseless. The submission regarding production of fitness certificate is also not substantiated. Then, it was submitted that there was force or coercion, which again is not proved. The second party had filed a departmental appeal to the authority at Kolkata. In that appeal, which is on record, there is no mention about several submissions, which are now tried to be made. In the written argument, it is submitted that absence was duly explained. Whatever reasons shown by the second party, were considered by the authority of the first party.

13. At least two letters dt.29-9-2005 & 8-2-2006 are written in Marathi, and they are signed by the second party. They are Exh.C-6 D & C-6 B. In the first letter, the second party has stated that he had some argument with other employee, but thereafter he apologized. Second party further writes that he would not come on duty on drunk. He would not harass anybody. In view of the court case of his wife, he was mentally disturbed, and therefore, he

committed the misconduct. He also undertook that he would not remain absent. Then, the second party stated that an action may be taken against him, if he indulges in indiscipline or drunkenness etc. In the subsequent letter dt.8-2-2006 also, there is an undertaking that he would not take leave and would attend duties on time. The admitted documents clearly indicate that the unauthorized absence from 16-9-2005 to 28-9-2005 and from 30-9-2005 onwards till charge-sheet dt.19-1-2006, has been duly proved.

14. In the past, the second party was punished on 4 occasions for the misconduct of unauthorized absence and irregular attendance, and consequent lack of devotion to duty.

15. The first party is an establishment of Government of India. There should be no reason for anybody to behave vindictively against second party. The factory belongs to the Ministry of Defence. In such services, discipline is of utmost important. Indiscipline or unauthorized absence of such a nature may not be tolerated by the authority. Considering the period of unauthorized absence, and the past service record, if the department decides to punish, an employee by way of compulsory retirement, the same can hardly be said to be unjustified. It is definitely not illegal. With the admitted facts and record, I find it difficult to exercise judicial discretion, and grant any relief. I thus find that the action is legal and justified, and no relief can be granted. The reference is accordingly answered.

Pune

Date : 03.01.2014

D. H. DESHMUKH, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2014

का.आ. 21.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ई. सी. एल., के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 137/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 24/12/2014 को प्राप्त हुआ था।

[सं. एल-22012/177/1999-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 24th December, 2014

S.O. 21.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 137/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol now as shown in the Annexure in the Industrial Dispute between the management of the

M/s. ECL, and their workmen, received by the Central Government on 24/12/2014.

[No. L-22012/177/1999-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT :

Sri PRAMOD KUMAR MISHRA, Presiding Officer

REFERENCE NO. 137 OF 1999

PARTIES :

The management of Sodepur Area, ECL.

Vs.

Sri Chandrika Yadav

REPRESENTATIVES :

For the management : Shri P. K. Das Ld. Advocate

For the union (Workman) : Shri R. K. Tripathi

INDUSTRY : COAL : STATE : WEST BENGAL

Dated : 02.12.2014

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/177/99-IR(CM-II) dated 31.08.1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Sodepur Area of ECL in not regularising Sh. Chandrika Yadav as Security Guard is justified? If not, to what relief is the workman concerned entitled?”

Having received the Order No. L-22012/177/99/IR(CM-II) dated 31.08.1999 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 137 of 1999 was registered on 14.09.1999 / 05.10.2001 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Sri R. K. Tripathi, representative of the workman and Sri P. K. Das Learned Advocate for the management are present.

Sri R. K. Tripathi submits that the case may be closed. The Management has no objection to close the case also. Since the workman's representative, i.e. the union (Koyla Mazdoor Congress) does not want to proceed with the case any further and the case is also too old – in the year 1999, I think it wise to close this case. As such the case is closed and accordingly a “No Dispute Award” may be passed.

ORDER

Let an “Award” be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2014

का.आ. 22.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. ई. सी. एल., के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 121/1994) को प्रकाशित करती है जो केन्द्रीय सरकार को 24/12/2014 को प्राप्त हुआ था।

[सं. एल-22012/89/1994-आईआर (सी-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 24th December, 2014

S.O. 22.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 121/1994) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the management of Rajnagar Ro of SECL, and their workmen, received by the Central Government on 24/12/2014.

[No. L-22012/89/1994-IR(C-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, JABALPUR
NO. CGIT/LC/R/121/94**

Vice President,
NCWF(NLO),
PO Rajnagar colliery,
Distt. Shahdol (MP)

...Workman/Union

Versus

Sub Area Manager,
Rajnagar RO of SECL,
PO Rajnagar colliery,
Distt. Shahdol (MP)

...Management

AWARD

Passed on this 4th day of December 2014

1. As per letter dated 2-8-84 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-22012/89/94-IR(C-II). The dispute under reference relates to:

“ Whether the action of Sub Area Manager, Rajnagar RO, Sub Area of Hadeo Area of SECL (a) in converting 13 wagon shunters named below as Cat II workers without complying with the provisions of Section 9 A of the Act, and ; (b) in not making full payment of arrears of wages occurring to the 13 workers named below due to implementation of National Coal Wage Agreement-IV is legal and justified? If not, to what relief these workmen are entitled to:-

- i. Shri Kunjilal, S/o Likhanu,
- ii. Shri Dhanilal S/o Deodatt,
- iii. Shri Mangroo S/o Tannu
- iv. Shri Sukhlal s/o Tirath
- v. Shri Jagdish S/o Ramsagar
- vi. Shri Chandradeo S/o Bhuwal
- vii. Shri Rajaram S/o Hariklal
- viii. Shri Kanhaiya S/o Manbahor
- ix. Shri Sugreem S/o Tiroo
- x. Shri Ashwani Kumar S/o Indrabhan
- xi. Shri Sheonandan S/o Antram
- xii. Shri Barsatilal S/o Bishnuwa
- xiii. Shri Puran S/o Milan

2. After receiving reference, notices were issued to the parties. Ist party Union submitted statement of claim at Page 4/1 to 4/8. Union is however shown as IInd party in the statement of claim will be hereinafter referred as Ist party. Case of Ist party Union is that reference relates to conversion of status of 13 employees names given in the reference , wagon shunters Category II workers in violation of Section 9-A of I.D. Act. IInd party of reference relates to payment of full arrears of wages to those employees as per NCWA-IV. W.r.t. Ist part of reference, it is submitted that those 13 workers were initially employed by management as piece rated. They were required to perform

work of wagon shunters. According to job nomenclature under Wages Board Recommendations implemented since 1967 and NCWA all of them were performing jobs of Wagon shunters, they were paid salary according to work performed by them. They were earning monthly salary around 4000 to 5000 per month.

3. On 11-12-90, management issued notice under Section 9-A of I.D. Act that management informed those workers that from 1-1-1991, the condition of their service irrespective of matters covered in Schedule IV would be changed. Management also informed that the status of piece rated wagon shunters would be converted from 1-1-91. All those workers objected said notice giving their objections in writing. Thereafter management did not act upon the notice of change from 1-1-1991. That thereafter status of those workers denied as piece rated according to quantum of work performed by them. From August 1993, management converted their status to time rated employees posting them at RO Rajnagar colliery. As its consequences, management treated them as Category II mazdoor as time rated. That minimum salary prescribed for Cat-II workers in NCWA-IV enforced at that time. The conversion of status of those workers from piece rated to monthly rated, their total earning was reduced to 50 % of their earlier earnings.

4. Before converting status of those employees from 1993, notice under Section 9-A of ID Act was not given. Without giving such notice, their status was effected, their wages were reduced considerably. The employees suffered prejudice by conversion of their status. Conversion of their status is illegal and unjustified.

5. That so far as other workers are concerned executing those workers, they are paid salary of Category II. Those workers were performing work of piece rated wagon shunters. Subsequently they were transferred to CHP, Rajnagar. They were paid wages of Category II Rs. 52.09. Their transfer was effected for rationalization and improvement of at new Rajnagar 7th incline. Management introduced work through hallow machines which was not available earlier. Work started in January 1994. Prior to it, workers were transferred in anticipation of inducting collar machine. Transfer and change in their status as Category II mazdoor at time rated category adversely affected those workers without notice under Section 9-A of I.D. Act. That such notice is mandatory. Their status is changed in violation of notice under Section 9-A correcting from piece rated to time rated category Mazdoor II.

6. W.r.t. 2nd point in terms of reference, it is submitted that NCWA was implemented from 1-7-89. It was given retrospective effect from 1-1-1987. All those 13 workers were performing work of piece rated wagon shunters from November to July 1989. NCWA was introduced during 1-1-87 to July 1989. Management continued to pay salary of those workers prescribed under NCWA-III. After NCWA IV implemented from 1-1-1987, those workers are entitled

to salary/ wages as per NCWA from 1-1-1978. It is emphasized that those workers were not paid arrears as per NCWA-IV. They were paid Rs. 60,000 towards difference of arrears. It is alleged that IInd party not acted as model employer for payment of difference of wages as per NCWA-IV. It is reiterated that those employees are entitled to arrears of wages/salary from 1-1-1987 to August 1989. It is submitted that those workers were continuing to perform full work of wagon shunters prescribed under Coal Wage Recommendations and NCWA. Management had not allowed 100 % wages of Wagon shunters. It was contented that they are not entitled to full salary as prescribed to wagon shunters. Management is denied to pay salary at the rate NCWA-IV. Showing less preparation of their work consequently those workers are not getting salary in preparation to their work. That those 13 workmen were paid their salary to the extent of 60 % of the work done by them. Such payment is made to those workers from August 89 to July 93. Their status is converted from piece rated to time rated wagon shunters. It is reiterated that the workmen are entitled to 40 % salary to which they were entitled at the rate of NCWA IV not paid to them. Union is claiming arrears from 1-1-87 to July 89 as per NCWA IV and 40 % wages illegally withheld as arrears for the period August 89 to July 93.

7. IInd party management submitted Written Statement at Page 8/1 to 8/10. IInd party raised preliminary objection that reference is misconceived and bad in law. The dispute between parties is not referred for adjudication. While making reference, Government of India has favoured the Union. Terms of reference pertains to conversion of status without complying section 9-A of I.D. Act, not making full payment of arrears of wages. That Section 9-A is not applicable. There was a question whether workers are entitled to arrears of wages as per NCWA IV. Without deciding those questions, the reference has been made.

8. IInd party submits that coal mines in India are nationalized as per Coal Mine Nationalisation Act 1973, there were no uniform service conditions or agreement between management and Union in coal industry. After nationalization, uniform policy with regard to service conditions have been accepted. Agreement are renewed time to time known as NCWA- I to IV. The policy to be implemented is decided by JBCCI. The instructions issued by JBCCI for implementation of the provisions of NCWA are called Implementation Instructions. That Kunjilal and 12 others were appointed as piece rated workers by private nationalization. During the period of appointment, loadings were made manually. At Rajnagar siding there were only 15 box. After nationalization, few piece rated shunters were added to load the rack of 58 boxes was introduced. The payment to piece rated loaders demanded on work done by them. Around 1987, mechanical system of pulling wagon was introduced. The workman continued the part of job of pulling wagon on piece rated basis. It is submitted that

amount Rs. 5,22,515.33 was wrongly paid in excess to those workmen. The work of pulling wagon mechanically was also considered while making payment to those workmen. Therefore the workmen are not entitled to arrears as per NCWA IV.

9. Workman had submitted application before RLC, Jabalpur. Order under Section 33(C)(1) of ID Act was passed directing payment to each of the workmen. Order was challenged in High court. IInd party submits that on average work done by manual pulling comes to 15 to 24 and work of pulling 58 wagon per day was carried. The wages on the basis of 60 % was paid to those workers i.e. for work of pulling 34 wagon. Workmen were paid excess amount for 15 -20 wagons. After enquiry it was found that amount of Rs.5,22,515.33 was paid in excess to these workmen. Order passed by RLC was stayed at High Court and directed to this Tribunal to decide all the matters.

10. IInd party submits that notice under Section 9-A is necessary in respect of matters provided in Schedule IV. Notice of change is necessary where rationalization, standardization of improvement of plan or technical is likely to lead to retrenchment of workman. After introduction of pushing wagons by machine, the work of manual pushing of wages is not available. Workmen were transferred to other places with an object to continue them in employment. Therefore the notice under Section 9-A of ID Act is not required. Workmen are already paid excess amount for work of manual pulling therefore they are not entitled to arrears as per NCWA IV. On such ground, IInd party is praying that reference be answered in its favour.

11. IInd party submitted rejoinder at Page 9/1 to 9/7 reiterating its contentions in Written Statement.

12. Proceeding for recovery under Section 33(C)(2) of ID Act is filed by workman. claim in said proceeding will be decided in terms of decision in the reference.

13. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|-------------|
| <p>(i) Whether the action of Sub Area Manager, Rajnagar RO, Sub Area of Hadeo Area of SECL in converting 13 wagon shunters named below as Cat II workers without complying with the provisions of Section 9 A of the Act is legal?</p> | In Negative |
| <p>(ii) whether the action of Sub Area Manager, rajnagar RO, Hasdeo Area of SECL in not making full payment</p> | |

of arrears of wages occurring to the 13 workers named below due to implementation of National Coal Wage Agreement-IV is legal and justified?

In Affirmative

- | | |
|--|--|
| <p>(ii) If not, what relief the workman is entitled to?"</p> | <p>Workmen are not entitled to any relief.</p> |
|--|--|

REASONS

14. It is case of Ist party Union that they were working as piece rated shunters. Their service conditions are changed converting them as piece rated workers in violation of Section 9-A of I.D. Act. To be precise, IInd party management submits that notice under Section 9-A was not required as work of shunting was carried mechanically from 1986. The manual shunting work were not available. To avoid retrenchment, the workmen were transferred to other mines. The evidence of witness for Ist party Union Ashwini Kumar in cross-examination shows after 9-7-93, the work of manual shunting was not taken from anybody. He denies that from 1987, work of wagon shunting was started by machine. That there is no category of wagon shunters. He denies that in 1993, the work of wagon shunter was carried mechanically and there was no need of manual wagon shunters. Shri Chandradev, witness No.2 for Ist party says in 1995, he retired as Wagon shunter. The work of wagon shunter was carried by machine from 1989 that they had not maintained private record about work of wagon shunting. At end of his cross-examination, he says that they had no objection for the work after their conversion to Cat-I. when they were transferred to 7th, 8th Incline. Evidence of Baijnath Singh Union office bearer shows that he is Union Representative. He never worked at site of working by those 13 workmen.

15. The evidence of management's witness Shri R. K. Tiwari Loading Suptd. Is mostly devoted to work of shunting wagons manually etc. His evidence doesnot cover the point of issuing notice under Section 9-A of change in service conditions of those 13 workmen. Ranjan Kumar Witness No.2 also doesnot cover the point of change in service conditions of 6-30 workmen from piece rated to Cat-II. The evidence of Witness No.3 Shri N.R.Das deals with the points of service conditions on workers are governed by NCWA, Bipartite settlement, JBCCI instructions. After nationalization, few piecerated shunters were added to load the rack of 30 boxes introduced as a growth of coal production. The work of wagon shunting are done manually by piece rated shunters. His evidence mostly covers the work of wagon shunting carried manually and mechanically shunting was started around 1986. That the workmen were paid excess amount. RLC directed payment of amount Rs. 35 Lakh under section 33(C)(1), said order was kept in abeyance after challenge before High Court. Exhibit W-4 is notice dated 11-12-90 issued by

management for change of service conditions proposed by employer. Said notice speaks that due to the work of wagon pushing through wagon shunters engaged on pushing wagons at Rajnagar are no longer required to push wagon moreover pushing wagons manually on piece rated is not operated. Notice was issued to Chandradev Exhibit W-7 calling his option within 7 days. The change proposed by management was opposed by the workers as well as Union. The copy of notice dated 11-12-90 is produced by management at Exhibit M-14. Copy of objection submitted by workers is produced at Exhibit M-15 bearing signatures of several workers. Copy of objection submitted by workman is produced by Ist party at Exhibit W-3. Workman had requested pay protection and benefit of paid holidays, sick leave, CL etc.

16. Witness Ashwini Kumar and Chandradev in their affidavit of evidence have stated that they were working as piecerated workmen from august 93. They were converted to time rated wagon shunter Cat-II without notice. He and his co-workers had opposed. Their conversion as time rated wagon shunting mazdoor Category II. Their entire evidence doesnot show that after submitting objection they did not carry the work of wagon shunter in time rated cat-II. Rather their evidence shows that they had carried said work by existing ipayment of wages as piece rated wagon shunters. Shri B.K.Singh submitted exhaustive written notes of argument. In para-21 of his notes, it is submitted that copy of wage billing of piece rated wagon shunter are not produced. The documents produced are of subsequent period. The evidence of management's witness shri N.R.Das is imaginary and bogus. In para-22 of his notes, it is submitted that the billing of piece rated wagon shunters was prepared in Manager's office till 10th day of the month. From 1994 onwards, the work of billing was computerized. His evidence is devoted about the claim of wages for work as breakman, pointsman etc. The evidence on record shows even after submitting objections, the workman carried work of wagon shunters, time rated Cat-II.

17. Ist party relies on ratio held in

Case of M/S Kec International Ltd versus Kamani Employees Union and others equivalent citation 1998(3) BomCR 590. In para-3 their Lordship dealing with violation of Section 9-A of ID Act discussed, it is contented that no notice as contemplated under Section 9-A the ID Act, 1947 was issued and consequently the action of the management in accepting the applications for voluntary retirement Scheme was ab-initio null and void and it must be deemed that the workmen are in service. It is in that context that they have prayed for various reliefs for the 105 workers who are enlisted at Exhibit "C" who have withdrawn their VRS applications.

In case of 2013-136-FLR-1070. Their Lordship dealing with Section 9-A held merely because other employees

drivers did not object on being appointed as operators. It doesnot mean that employer was not under obligation to give notice of change under Section 9-A of Act.

On point of converting those 13 workmen as time rated wagon shunters, learned counsel for IInd party Shri A.K.Shashi submits that notice of change under Section 9-A is required to be given w.r.t. the matters provided in Schedule-IV. It is further submitted that when change is required to be introduced to retrench the workers for introducing standardization, notice is required.

Schedule-IV under ID Act deals with conditions of service for change of which notice is to be given-

1. Wages, including the period and mode of payment,
2. Contribution paid, or payable by the employer to any Provident Fund or pension fund or for the benefit of the workmen under any law for the time being in force,
3. Compensatory and other allowances,
4. Hours of work and rest intervals,
5. Leave with wages and holidays,
8. withdrawal of any customary concession or privilege or change in usage,
9. introduction of new rules of discipline or alteration of existing rules, except in so far as they are provided in standing orders.
10. rationalization, standardization or improvement of plant or technique which is likely to lead to retrenchment of workmen

The change in service condition of 6-13 workmen from piece rated to time rated Cat-II wagon shunter certainly as impact of change payment o wages from piece rated to time rated workers. In my considered view, the notice under Section 9-A was required. Service conditions of those 13 workmen are changed without notice under Section 9-A of I.D.Act. Thus provisions of Section 9-A of I.D.Act are violated by IInd party while converting those workers from piece rated to time rated shunters Cat-II. For above reasons, I record my finding in Point No.1 in Negative.

18. Point No.2- 2nd part of reference relates to not making full payment of arrears of wages to 6-13 workmen as per NCWA-IV. The evidence of witness of workman is clear that NCWA Core was implemented from August 89 with retrospective effect. From 1-1-1987. That during intervening period, NCWA IV was in force. The wages were paid to those workers as per NCWA-III as piece rated workers. In his notes of argument. Shri B.N.Singh Vice President of the Union also advanced submission without those workers were carrying the work of loading point, manual, opening couplings, crossing points etc. and the wages Cat-IV are calculated. Howeverabove said claim is

certainly beyond the terms of reference. 2nd part of the terms of reference relates to non-payment of difference of arrears of wages as per NCWA-IV were not paid to those workers from 1-1-1987 to August 1989. That the workmen were paid 60 % wages of the work carried by wagon shunters. They were not paid 40 % wages of work of wagon shunting. Both the witnesses for claimed wages 40 % of the total work of wagon pulling. The evidence of the management's witnesses is that from 1986 onwards, work of wagon pulling was carried mechanically. There were 15-20 wagon of 22 tones. In the past work of wagon pulling 15-20 used to be carried after introduction of work of wagon pulling by machine, pulling of 58 wagons was carried every day. While making payments to those piece rated workers, 60 % work was considered for billing i.e. about 34 wagons per day. That the actual work of wagon pulling was carried by those workmen of 15-20. The workmen were paid excess amount for 14-15 wagon per day. Those workmen were paid excess amount of Rs. 5 Lakh, Rs. 22,540.13 stated by Shri N.R.Das in Para-16 of his affidavit. The payment made to those workers @ 60 % of the total wage making as well manually from Sept 89 to May 93 comes to Rs.8,17,303.79. The excess payment of Rs.13,39,820.94 was made to the workman. In para-13 of his affidavit, N.R.Das has stated RLC has directed management for payment of Rs.35,81,500. Said order was challenged before Hon'ble High Court. Hon'ble High court has stayed order passed by RLC with direction that Tribunal may decide the claims between parties. Shri N.R.Das in his cross-examination admits that the officers concerned with Rajnagar are not witness in this case. That Mr. Raghuraj Singh was looking the work of Rajnagar Mines. His evidence in further cross-examination shows he had knowledge of working of Rajnagar Colliery as he was sitting with the officers. He was going to siding of Rajnagar colliery with Raghuraj Singh. That they have not prepared in the registers. He was not responsible for work of Rajnagar Siding. Work of loading was carried in 3 shifts. Different clerks were looking after work in the shift. Before nationalization, there was single unit at Rajnagar Area. There was loading side for the unit. Piece rated wagon shunter at Rajnagar was prior to nationalization. Wages of piece rated employees were different. He could not produce old wage agreement. The work load was not revised. His further evidence in cross-examination shows that Tarex Machine was used by contractors. Loading and pushing work was carried by Singh Contractor. The witness was unable to tell its date. Shri N.R.Das in Para-40 of his cross admits that arrears for the period 1-1-1987 to August 89 are not paid to the workers which they were entitled. He further says, it came to notice that amount of Rs. 5,22,306/- was paid in excess of those workers. They were paid excess amount of Rs.8,17,100/- for the period Sept 87 to May 93. The evidence of Shri N.R.Das on the point of excess payment made to those workers is not shattered in his cross-examination. Shri R.K.Tiwari in his cross-examination para-11 says after

1986, 58 wagons per day shunting work was carried. After December 1986, coal from open cast mines was received. The wagon racks were increased. Thereafter Shunting work was stopped. As per evidence of Shri R.k.Tiwari, Ranjan Sahai, chandrabhan Singh, Mahanji were looking after the work of Wagon shunting. Loading mate was submitted report on papers, its entry was taken in office. He was not signing on report submitted by loading mate. The evidence of shri R.K.Tiwari that work of wagon shunting carried by mechanical process since 1986 is not shattered in his cross-examination. The evidence of witnesses of Ist party Union doesnot show that any separate record was maintained about the work of shunting wagon manually and mechanically. Rather the witnesses of Ist party Union claims that total work of wagon shunting was manually carried. Therefore evidence on above point cannot be accepted in view of evidence of Management's witness R. K. Tiwari and N. R. Das.

19. IInd party has produced as Exhibit M-1, M-2 w.r.t. cases amount paid to workers. The details are shown in M-1A to M-1F and Exhibit M-2. The evidence of witnesses of Ist party is absolutely silent about excess payment made to workers shown in all those documents. Exhibit M-3 is report of the Committee which had inquired about the payments made and reported excess payment. The evidence of management's witnesses No.2 and 3 and documentary evidence cannot be disbelieved. The evidence of the witnesses of Union that total work of wagon pushing was carried manually by those 13 workers cannot be believed. The evidence on record shows that excess amount is also paid to the workers. Those workers were also paid advance Rs.15,000 towards arrears for the period January 89 to august 89. The evidence of witness of Ist party is not clear to calculate how much work of wagon shunting was carried by them and how much amount of arrears they are entitled. Certainly burden lies on workman to establish their claim for arrears as per NCWA IV is due against the management. The evidence adduced by witnesses of management is not sufficient to establish exact amount of arrears as per NCWA IV adjusting excess amount paid to them.

20. Union Representative V. N. Singh has submitted citations in case of M/S Tata Iron and Steel Company Ltd versus their workmen reported in 1972(2) SCC 383. The judgment between Hindustan Lever Ltd Employees Union equivalent to citation 1999(1) BomCR722. Both cases, facts are not comparable to the case at hand.

21. To sumup, the evidence of witnesses of Ist party is not clear how much work of shunting wagon carried manually during the period 1-1-1987 to August 89. Amount of arrears as per NCWA-IV therefore cannot be calculated. For above reasons, claim of workman for arrear as per NCWA-IV cannot be allowed. For above reasons, I record my finding in Point No.2 in Negative.

22. In the result, award is passed as under:-

- (1) The action of Sub Area Manager, Rajnagar RO, Sub Area of Hadeo Area of SECL in converting 13 wagon shunters Cat II workers without complying with the provisions of Section 9 A of the Act is illegal.
- (2) Workmen are not entitled to arrears of wages as per NCWA-IV as excess amount was already paid to them.
- (3) Proceeding under Section 33(C)(2) in Case No. C/4/94 stands disposed in terms of award. Copy be placed on record of C/4/94.
- (4) Parties to bear their respective costs.

R. B. PATLE, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2014

का.आ. 23.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल., के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 276/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 24/12/2014 को प्राप्त हुआ था।

[सं. एल-22012/86/1999-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 24th December, 2014

S.O. 23.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 276/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the M/s. WCL, and their workmen, received by the Central Government on 24/12/2014.

[No. L-22012/86/1999-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/276/99

Chief General Secretary,
RKKMS (INTUC),
PO Chandametta,
Distt. Chhindwara (MP)

...Workman/Union

Versus

Chief General Manager,
WCL, Pench Area,
PO Parasia,
Distt. Chhindwara

...Management

AWARD

Passed on this 9th day of December 2014

1. As per letter dated 3-8-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/86/99/IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of WCL, Pench Area, PO Parasia, Distt. Chhindwara in not giving promotion/ notional seniority with back wages to Shri Rameshwar Prasad in Grade I from 1985 and special Grade from 1990 is justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 9/1 to 9/5. Case of Ist party workman is that he was appointed as General Mazdoor on 2-11-1972. He was promoted as clerk Grade II on 1-12-78. He was posted under Sub Area Manager, Burkui Colliery. In 1984, management declared existence of Burkui colliery seized. It merged with Eklehra colliery. At the time of merger of colliery, Manager displayed notice on Notice Board inviting options of two places from excessive staff for transfer. Applicant submitted option for his transfer to C.M.Store or GM office. That management avoided his transfer on administrative ground. The transfer order was issued on ground of request. Workman alleged malicious intention for such transfer by management. The excess staff was posted within Eklehra colliery as per order dated 15-7-84 even after merger of colliery, the surplus staff was retained as per order dated 11-7-84 by management. Name of workman was at Sl.No.4. the merger of Burkui and Eklehra colliery was completed as per order dated 9-3-85 letter issued by the PF commissioner, Chhindwara.

3. Ist party workman further submits that he was detained at Burkui colliery for completing work of PF. After completion of said work, he was transferred to area office on 30-7-85. He joined said posting on 2-8-85 in account section. That in seniority list of area Office, his name was put in bottom. He was superseded by his juniors on basis of station seniority. That station seniority could not be applied in this case as he was transferred on administrative ground after merger. Workman further submits that on 3-5-86, employees junior to him were promoted as Grade II. His name was omitted from order of promotion. He submitted various representations. The same were not considered. Workman further submits that the order of his promotion was issued on 31-7-91. He was denied national seniority from 3-5-86. He submitted various representations. The matter was placed before the committee constituted on 9-11-94. Said committee illegally held that his transfer was on mutual ground and his seniority at bottom is proper.

4. Ist party workman further submits that his transfer order was single. Mr. Atique Mohd clerk Grade I was transferred to Eklehra. He was transferred to GM Office, that Senior personnel cannot be mutually transferred with junior. Mr. Atique Mohd. Was transferred as Clerk Grade I. Mutual transfer of workman with Atique is illegal. It is reiterated that seniority of workman is illegally denied. Dy.Chief Personal Manager had recommended properly his national seniority from 3-5-86. On its approval, the order was issued on 25-3-95. The placement order was issued on 3-7-95. Both orders were revoked behind his back on recommendations of junior most personal officer. Workman submits that he is victimized by management showing seniority at bottom. He is superseded by juniors. On such ground, workman is praying promotion to clerk Grade I from 3-5-86 and promotion to Special Grade from 1990.

5. IInd party filed Written Statement at Page 10/1 to 10/4 denying claim of the workman. Prior to it, exparte Written Statement was submitted by IInd party. IInd party did not dispute that the workman was working at Burkui Colliery. He submitted application for transfer to GM Office. His application was sympathetically considered and transferred workman on request. That seniority in GM office was taken from date of joining on request transfer. Workman thereby become junior in existing clerk Grade II in GM office as per prevailing practice. Ist party workman submitted several representations requesting to treat his transfer on administrative ground. If his request was not accepted. On recommendation by DPC, workman was promoted as Accounts Assistant in special Grade on 29-9-98 as per prevailing practice. All adverse contentions of workman in statement of claim are denied. IInd party denies that juniors were given promotion. It is denied that Committee had illegally held that transfer of workman was mutual. Workman was transferred on his request, he was placed at bottom of seniority. IInd party submits that reference be answered in its favour.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- (i) Whether the action of the management of WCL, Pench Area, PO Parasia, Distt. Chhindwara in not giving promotion/ notional seniority with back wages to Shri Rameshwar Prasad in Grade I from 1985 and special Grade from 1990 is justified? In Negative
- (ii) If not, what relief the workman is entitled to?" As per final order.

REASONS

7. As per terms of reference, the claim of promotion to Grade I post is shown from 1995 whereas in statement of claim, workman had claimed promotion to said post from 3-5-86. The substance of grievance of workman is after merger of Burkui mines in Eklehra mines, he submitted option for transfer to GM office as notice was displayed by Manager. His transfer was on administrative ground but his transfer was shown on mutual ground and he was placed at bottom of seniority list. IInd party contents that transfer of workman was on request/ mutual transfer and therefore his seniority was placed at bottom. The Committee also confirmed seniority of workman fixed at bottom was proper. Workman filed affidavit of his evidence. Workman has stated that in 1984, Burkui colliery in Eklehra colliery. After that Manager issued order dated 11-7-84 directing surplus staff be retained. his name was at Sl.No.4 in said order. That he had submitted option for his transfer to CM Store/ GM office on 6-5-84. After he submitted option, order of his transfer was issued on 18-6-85. His transfer was shown mutual. In transfer order, there is no term to take his seniority from joining duty at place of transfer as prevailing practice. That both mines are merged in 1984. PF Commissioner, Chhindwara declared merger as per letter dated 9-3-85. That he was detained at Burkui colliery for completion of work of PF. Then he was renewed on 30-7-85. He joined place of transfer on 2-8-85. His seniority was shown at bottom. That he was transferred as clerk Grade II whereas Atique was transferred as Clerk Grade I. it cannot be mutual transfer. In his cross-examination, workman says he had submitted application for transfer to GM office. His application was not accepted or rejected. He worked in GM office since 1985. He admits that in 1985, his application or transfer was accepted. Prior to 1984, seniority of clerks was maintained simultaneously. After introduction of cadre scheme, option was called. He was promoted in 1991, his seniority was not given in the order of promotion. The Committee had found his seniority given at bottom was proper. Workman explained that when Burkui colliery was closed, management issued notice calling option of witnesses for transfer. That Dy.Chief Personal Manager Shri C.L.Jaiswal had cordial relations with him. Workman was unable to tell whether any chargesheet was issued to Shri Jaiswal. He denies that notesheet was put up by Jaiswal was wrong. Since 1998, he is working on clerks Grade Special.

8. The evidence of workman in re-examination and his cross-examination relates to documents Exhibit W-8-a,b,c, W-9 as those documents have no vital impact for deciding seniority of the workman.

9. The documentary evidence Exhibit M-1 is option submitted by workman as per notice issued by Manager. M-2 is notice issued by Manager calling option for two places, M-3 is order of transfer of Atique Mohd. And

workman were transferred to Eklehra and GM office respectively. Their transfer is shown on his own request. Order is silent that their seniority will be shown at bottom at place of transfer. Exhibit M-4 is order of promotion of workman dated 25-3-95. Said order shows that his seniority will be considered for promotion to the next higher grade. Exhibit M-5 is note submitted by Dy.Chief personal Manager to treat transfer of workman on administrative ground in consequence of merger of Burkui colliery and absence for transfer called on 6-5-84. Exhibit M-6 is letter dated 9-3-85 confirming merger of Burkui and Eklehra Mines. M-7 is order dated 5-10-96 revoking order dated 18-6-85. From above order, it is clear that the transfer of workman treated on administrative ground was revoked and therefore the delay in raising dispute alleged by IInd party cannot be accepted. Infact the dispute starts after revocation of the earlier order by Exhibit M-7. Exhibit M-9 is report of Committee treating mutual transfer of workman. No application for transfer by Atique Mohd. Is produced on record. In absence of such application, the transfer of applicant cannot be said mutual. Committee had overlooked the application of workman in pursuance of notice issued by Manager calling option. The evidence of workman that he was detained at Burkui colliery for completing work is not shattered. Order Exhibit W-1 order dated 11-6-84 about merger of both the mines. W-2 shows workman was promoted as Clerk Grade II from 1-12-1978, Exhibit W-5 is order of promotion of workman dated 31-7-91. W-6 is order treating transfer of workman on administrative ground. Said order has been revoked. Subsequently the reasons are not justified.

10. The evidence of management's witness Abdul hakim shows that workman submitted representations to treat his transfer on administrative ground. Said witness was not made available for cross-examination. Management witness Samir Barla tried to support contentions of management. In Par-11 of his affidavit, he says the basis granting notional seniority to workman was his transfer order but he was not transferred to GM office, he was transferred on 18-6-85. Why workman was not transferred as per his option. The evidence of workman that he was detained for completing work remained unshattered. The evidence of management's witness cannot be accepted. The witness of management was unable to tell when Burkui colliery was closed, he did not remember about it. From his evidence in cross-examination, Exhibit W-1 to W-7 are admitted in evidence.

11. To conclude the workman had submitted option for transfer in pursuance of notice issued by manager but was detained for completing work and transferred subsequently. His transfer was on administrative ground and not on transfer request. The transfer order is silent that his seniority will be at bottom at place of joining therefore the action of management cannot be justified. Workman is discriminated on ground that his transfer was

mutual on request. The evidence of management's witness is silent what was the practice in GM office and whether such practice was approved and acquired legal sanction. In absence of such satisfactory evidence on above point, the denial of promotion to the workman overlooking his original seniority is illegal. For above reasons, I record my finding in Point No.1 in Negative.

12. Point No.2- In view of my finding in Point No.1 workman is illegally discriminated showing his seniority at bottom, therefore workman deserves promotion as per his original seniority. Accordingly I record my finding in Point No.2.

13. In the result, award is passed as under:-

- (1) The action of the management of WCL, Pench Area, PO Parasia, Distt. Chhindwara in not giving promotion/ notional seniority with back wages to Shri Rameshwar Prasad in Grade I from 1985 and special Grade from 1990 is not proper and legal.
- (2) IInd party is directed to consider promotion of workman to post of Clerk Grade I and special Grade considering his transfer order dated 30-7-85 to GM office on Administrative ground. Workman be allowed all monetary benefits.

R. B. PATLE, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2014

का.आ. 24.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. ई. सी. एल., के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 42/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 24/12/2014 को प्राप्त हुआ था।

[सं. एल-22012/110/2001-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 24th December, 2014

S.O. 24.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 42/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Bangwar Sub-Area of SECL, and their workmen, received by the Central Government on 24/12/2014.

[No. L-22012/110/2001-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, JABALPUR
NO. CGIT/LC/R/42/02

Shri Laxman Prasad, General Mazdoor,
 T. No. 1747, Bhuiabandh,
 PO & Distt. Shahdol (MP) ...Workman

Versus

Sub Area Manager,
 Bangwar Sub Area of SECL,
 PO Bemhouri, Distt. Shahdol (MP) ...Management

AWARD

Passed on this 11th day of December 2014

1. As per letter dated 22-2-02 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-22012/110/2001-IR(CM-II). The dispute under reference relates to:

“ Whether the action of the Sub Area Manager, Bangwar Sub Area of SECL, PO Bemhouri, Distt. Shahdol (MP) in terminating Shri Laxman Prasad, General Mazdoor from services on 5-4-99 is legal and justified? If not, to what relief he is entitled to?”

2. After receiving reference, notices were issued to parties. Workman died during pendency. His LRs are substituted. The deceased workman submitted statement of claim at Page 4/1 to 4/5. Case of workman is that he was appointed as General Mazdoor with IInd party on 3-12-84 on vacant post. He worked with devotion on 7-6-94, he was transferred from Chachai Project to Bungwar Project. Due to his ill health, workman did not obey transfer order. He submitted information alongwith medical certificate to the department on 4-2-98, management imposed punishment withholding one increment with cumulative effect. Workman was allowed to join duty on 5-2-98. He was not paid wages from June 94 to Jan-98- the period of absence.

3. Workman submits he joined duty on 5-2-98. Because of illhealth, he did not attend duty from 21-6-98 to 9-8-98. He submitted Medical Certificate in support of his absence. On 12-8-98, chargesheet was issued to him for unauthorized absence without considering the facts. Workman denied charges against him. Workman submitted he was seriously ill. Medical Certificate was also submitted. His reply was not considered and enquiry was initiated against him. Enquiry Officer was appointed. He conducted enquiry without following principles of natural justice. Names of witnesses and list of documents were not submitted with chargesheet. On 14-12-98, Enquiry Officer submitted his report. On report of Enquiry Officer, punishment of removal

from service was imposed against workman on 5-4-98. Workman was not given personal hearing before imposing punishment contrary to principles of natural justice.

4. Workman submits that the punishment of removal from service is imposed without application of mind, enquiry conducted against him was not fair. Principles of natural justice were not followed. While imposing punishment, no reasons are given for rejecting his defence. The order of punishment is passed mechanically by Disciplinary Authority. The punishment is harsh, disproportionate in the circumstances. The Enquiry Officer without recording evidence of witnesses submitted his report. Workman was not given opportunity to lead evidence and produce documents. On such contentions, workman prays for his reinstatement with back wages.

5. IInd party submitted Written Statement at Page 11/1 to 11/7 opposing relief claimed by workman. IInd party submits workman was initially appointed as General Mazdoor on 3-12-84. Vide order dated 9-6-94, workman was transferred to Bungwar Mine. Workman was in habit of remaining absent without sanctioned leave, without intimation of permission. The service conditions of workman are covered by standing orders of colliery. The standing orders requires workman to submit application for leave in writing to the Competent Authority. Employees working in Coal industry are given various facilities i.e. Leave, Medical Facilities, LTC. The dispensary is provided at colliery level. Serious patients are referred to specialized hospital. The attendance of workman from 94 to 97 was nil.

6. For unauthorized absence, chargesheet was issued to workman on 14-8-98, reply submitted by workman was found not satisfactory. Shri R.Rajeshwar was appointed as Enquiry Officer. Shri S.R.Chajar was appointed as Management's Representative. Enquiry was conducted on various dates following principles of natural justice. Workman fully participated in enquiry. He was allowed services of co-worker but workman did not avail the same. Workman had participated in enquiry. The findings of Enquiry Officer were confirmed by Competent Authority. Showcause notice was issued to workman, he failed to submit his reply. The punishment of removal was imposed against workman after findings of Enquiry Officer. It is reiterated that unauthorized absence must be nipped at the earliest as failure of employee for work affects coal production. All other adverse contentions of workman have been denied. It is submitted that workman resumed duty on 5-2-98. Chargesheet was issued to him for unauthorized absence and punishment has been imposed. The appeal was dismissed.

7. Workman submitted rejoinder at Page 15/1 to 15/2 reiterating his contentions in statement of claim.

8. Counsel for Ist party workman on 24-3-2014 submits that legality of enquiry is not disputed. The parties not

adduced evidence on other issues. Final argument are heard.

9. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|---------------------|
| (i) Whether the action of the Sub Area Manager, Bangwar Sub Area of SECL, PO Bemhouri, Distt. Shahdol (MP) in terminating Shri Laxman Prasad, General Mazdoor from services on 5-4-99 is legal and justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

10. As discussed above, legality of enquiry is not disputed by counsel for workman. Therefore the question remains whether charges against workman are proved, whether punishment of removal from service of workman is proper and legal. Workman died during pendency. His LRs are brought on record. The documents produced by Ist party Exhibit W-1 is order of punishment dated 4-2-98 stopping of one increment with cumulative effect for chargesheet issued on 4-12-97. Exhibit W-2 is chargesheet issued to workman on 12-8-98 for unauthorised absence and habitual absence under Clause 26.30, 26.24 of the standing orders. Exhibit W-3 is copy of findings of Enquiry Officer holding charges alleged against workman are proved. Exhibit W-4 is copy of order of removal from service.

11. IInd party management produced record of enquiry at Exhibit M-1. The deceased workman filed affidavit of evidence on the point of legality of enquiry. As learned counsel for workman Shri S.Mishra did not dispute legality of enquiry, the evidenced of affidavit needs no more detailed discussion. For the same reasons, evidence of management's witness Shri R.Rajeshwar on point of conducting enquiry needs no detailed discussion. The record of Enquiry Proceedings M-1 is produced. The charges against workman were of unauthorised and habitual absence. Chargesheet was issued on 12-8-98 stating absence of workman from 20-5-98. Thus the period of absence comes about less than 3 months. During course of argument, learned counsel for workman Shri S.Mishra submits that workman had submitted applications alongwith medical certificate were not considered by Enquiry Officer. The reasons for absence were informed by workman. The chargesheet doesnot show details pertaining to habitual absence of workman. The charge of habitual absence cannot be proved. The record of Enquiry Proceedings Page 9 shows on questions, workman explained he was granted permission to join duty from

20-6-98. As per letter dated 18-6-98, Dr. D.K. Singh advised him for his treatment. The Medical Officer, District, Shahdol certified the same. Workman was advised to join duty from 11-10-98. Sick/fit certificate was submitted by workman. Certain documents are produced at Page 10 & 11. Workman has not denied his absence from duty, his contentions are he had submitted Medical Certificates to the department. Workman had not submitted any applications for leave before Enquiry Officer and therefore the charge of unauthorized absence is proved against the workman.

12. Learned counsel for IInd party Shri A.K.Shashi submits enquiry is held legal. Question is whether charges alleged against workman are proved related to his habitual absence. Workman was absent more than once. The attendance details are given. Absence without sanctioned leave of workman is established. Workman not availed treatment in colliery hospital. Zerox copy of Medical Certificate produced in enquiry. Workman has admitted his absence. He was advised rest. It is not his case that he fell ill. Workman was transferred on 7-6-94. His one increment was stopped for his absence in 1994 to 1998. Therefore it is submitted that charge of habitual absence is also proved. In his statement of claim itself, workman has pleaded that his one increment was withheld for unauthorized absence from 1994 to 98. He was allowed to join duty on 5-2-98. It is clear from pleading of workman himself that he was absent from duty during 94 to 98. When he remained absent without intimating to management from 20-5-98 to 12-8-98 therefore the period of habitual absence is also proved against workman.

13. The learned counsel for management Shri A. K. Shashi in support of his argument relies on ratio held in—

Case of Vivekanand Sethi versus Chairman J&K Bank Ltd. And others reported in 2005(5) SCC 337. Their Lordship held application for grant of leave much after period of leave already sanctioned was over. Dealing with application of natural justice, their Lordship held when facts are admitted, an enquiry would be an empty formality.

Even in present case, the absence of workman from duty during 1994 to 1998 and 20-5-98 to 12-8-98 is admitted in statement of claim itself. Therefore discussion of evidence in Enquiry Proceeding is not necessary.

Shri A.K.Shashi also relies on ratio held in case of Delhi Transport Corporation versus Sardar Singh reported in AIR 2004 SC-4161. From reading of Para-16 of judgment it is clear that matter was remitted back to the Tribunal to consider the matter afresh after granting due opportunity to the parties. Therefore detailed discussion in para 9 & 11 of the judgment is not required.

For reasons discussed above, I record my finding in Point No.1 in Affirmative.

14. Point No.2- In view of my finding in Point No.1 charges of unauthorized absence and habitual absence against workman are proved. However for unauthorized absence from 1994 to 97, punishment of withholding one increment was imposed against workman. The question arises whether punishment of removal imposed against workman for unauthorized absence and habitual absence is proper. The order of punishment imposed against workman is produced at Page 16 of record of Enquiry. The explanation submitted by workman about his illness was not considered. The length of service of workman is not considered while imposing punishment of removal from service. For earlier absence of workman from 94 to 97, punishment of withholding one increment was imposed whereas punishment of removal is imposed for his absence less than 3 months.

15. Learned counsel for IInd party Shri A. K. Shashi on the point of punishment relies on ratio held in

Case of Union of India versus A.Nagamalleswar Rao reported in AIR-1998SC-III. Their Loanship dealing with Section 14 of Administrative Tribunals Act held Tribunal cannot examine evidence produced before Inquiry Officer as if it is appellate court.

The ratio cannot be applied to present case as the powers of this Tribunal are provided under Section 11 of ID Act.

In case of Chairman-cum-Managing Director, Coal India Ltd. Versus Mukul Kumar Choudhari reported in AIR 2010 SC-75 relied by Shri A.K.shashi, the ratio held pertains to in departmental enquiry, delinquent admitting charges. Conclusion arrived at by Inquiry Officer about proof of charges. Absence of any procedural illegality or irregularity in conduct of departmental enquiry. It has to be held that charges against delinquent stood proved and warranted no inference.

The ratio in above cited case pertains to proof of charges on admission during Enquiry Proceedings. The facts of present case are not comparable. The ratio cannot be applied to present case. I have already recorded finding on Point No.1 considering pleadings in statement of claim by workman, both the charges against workman are proved.

16. In present case, workman was already punished for absence from 1994 to 1997. His one increment was stopped. For 2nd charge of unauthorised absence from 20-5-98 to 12-8-98 was for a period of less than 3 months workman was removed form service. Whether said punishment is proper and legal. While deciding quantum of punishment, length of service of workman was not considered. Workman was appointed inn 1984. He was transferred to other mine in 1994. Workman had completed more than 30

years service. The punishment of removal from service has impact of taking away all retiral benefits. Workman died during pendency. There is no question of his reinstatement. The victims are the family member. Therefore in my considered view, punishment of removal form service deserves to be modified to compulsory retirement of deceased workman. Accordingly I record my finding in Point No.2.

17. In the result, award is passed as under:-

- (1) The action of the Sub Area Manager, Bangwar Sub Area of SECL, PO Bemhouri, Distt. Shahdol (MP) in terminating Shri Laxman Prasad, General Mazdoor from services on 5-4-99 is legal and proper.
- (2) The punishment of removal imposed against workman is modified to compulsory retirement. the deceased and his LR's would be entitled to the pensionary benefits as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2014

का.आ. 25.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सी. एस. बी., के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 32/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 24/12/2014 को प्राप्त हुआ था।

[सं. एल-42012/24/2001-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 24th December, 2014

S.O. 25.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 32/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the management of Central Silk Board, and their workmen, received by the Central Government on 24/12/2014.

[No. L-42012/24/2001-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/32/02

Shri Laldas Barekar & 18 others,
Vill and PO Garra,
Distt. Balaghat, Balaghat

...Workman

Versus

Joint Director,
Central Silk Board,
Distt. Raigarh,
Chhattisgarh

...Management

AWARD

Passed on this 3rd day of December 2014

1. As per letter dated 30-1-02 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-42012/24/2001-IR(CM-II). The dispute under reference relates to:

“ Whether the action of the Joint Director, Central Silk Board, Raigarh in not regularizing not converting as a permanent time rated employee in respect of Shri Laldas Barekar S/o Shri Bachan Lal and 18 others after completion of attendance of more than 240 days is legal and justified? If not, to what relief the workmen are entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/7. Case of Ist party workmen is that after following selection process, they were engaged by IInd party as casual employees in 1983. Their service record was excellent . they were given benefit of medical allowance, paid holidays. That since 1983, they were continuously working for more than 240 days every year. They worked with devotion and honesty. Their services were not regularized. It is alleged that the junior employees Tilak Raj, Dalchand were regularized by IInd party without any reasons. Workmen were illegally shown as seasonal labours.

3. Ist party workman submits that in 1999, they had opposed the action of IInd party submitting repeated representations against discriminatory acts of IInd party. They had also raised dispute. Ist party workman reiterates that since 1999, the facility of medical allowance and paid holidays was discontinued by IInd party. They were illegally shown as seasonal employees. They were working as casual employees for several years. The action of the management after long service as casual employee showing them seasonal employees is illegal. Workman prays for reinstatement of their services.

4. IInd party filed Written Statement at page 7.1 to 7/4 opposing claim of Ist party workmen. IInd party submits that Ist party workman were engaged as casual workers on seasonal basis. In 1983 & 1991, they were engaged on seasonal nature of work in Basic Seed Multiplication and Training Centre, Balaghat. The availability of work is of seasonal nature. Workers get work only 15 days in a month on rotational basis. Said unit cannot provide work for whole year. Regular work cannot be provided by Basic Seed

Multiplication and Training Centre. Workers get work only 15 days in a month on rotational basis. Said unit cannot provide work for whole year. Regular work cannot be provided by Basic Seed Multiplication and Training Centre to seasonal labours. It is submitted that Silk Board has 21 basic Seed Multiplication Training Centre spread over various states details shown in Para-2 of the Written Statement. It is reiterated that the workman have not completed 240 days continuous service during any of the year. The work in Basic Seed Multiplication and Training Centre, Balaghat is seasonal. Workman have to work at Forest. Working period is maximum 5-6 months in a year during July to December. The unit is carrying work of seasonal nature- production of basic Tasar silkworm seed, production of Seed cocoons by rearing of Tasar silkworks, Raising and maintenance of Eco Plantation of Tasar Food Plants & training the farmers in Tasar Silkwork rearing technology.

5. IInd party further submits that Shri Tilakram Chawhan was engaged as casual worker on regular basis as per prevailing Board's rules, he was converted as timescale farm worker, whose service condition nature of work are entirely different from that of applicants. Smt. Daneshwari Chamlate was engaged as casual Farm worker on compassionate grounds in place of her husband who was a regular worker and deceased on 20-3-00 and he was converted as Time scale Field Worker. That seasonal work was allocated to labors of unskilled nature. No specific scheme is required for the jobs that when seasonal work increased intermittently additional seasonal labours are engaged by rotation from employees on road. Ist party workman engaged on seasonal basis are provided seasonal works without disturbance. They are not entitled to regularization claimed by them.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---------------------|
| (i) Whether the action of the Joint Director, Central Silk Board, Raigarh in not regularizing not converting as a permanent time rated employee in respect of Shri Laldas Barekar S/o Shri Bachan Lal and 18 others after completion of attendance of more than 240 days is legal and justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?” | As per final order. |

REASONS

7. Present reference pertains to claim for regularization of Ist party Laldas Barekar and 18 others. Ist party

workman in support of their claim filed identical affidavit of evidence. Shri Laldas Barekar in his affidavit claims he was working on daily wages from 16-9-85. He worked more than 240 days during the year 1986 to a 1999. That Tilak Ram and Dalchand were engaged after they were regularized in 1992, 1993, his services were not regularized. He has become age barred for Government Servant. Since year 2000, he is not regularly engaged on the work. As he objected regularization of Tilak Ram and Dalchand, the work was not provided to him regularly. Except date of engagement of Ist party workmen, identical affidavit of evidence are filed. Shri Laldas Barekar in his cross-examination says he received appointment letter. Work of IInd party continues whole of the year. He was doing work of breeding silk worms and supervising work in forest. He denies suggestion that work of unit carried during the month July to December. He explained that 3 breedings are taken in a year. That appointment letter is not produced on record. he reiterates that he worked more than 240 days during each of the year. Kheldas denies that he was engaged as seasonal labour. He further says that he was provided work for 45 days without break. No leave was granted during such period. The work of breeding is carried after rainy season is started. He denies suggestion that he not completed 240 days continuous service. Such suggestion are also denied by Channulal, Gangadas, Heeralal, Laxmichand Katre. In his cross-examination Laxmichand says he was engaged as casual labour. Work in the unit is carried from June to February. Thereafter he was doing work of supervising of plants. Pannalal in his cross-examination says he was not engaged as seasonal labour. He was engaged as casual labour. Ghuranlal though filed affidavit of his evidence, he was not cross-examined. Surajlal Bisen in his cross-examination says he was doing work of breeding silk works and supervising of plantation. The work was carried in the forest and the office unit. Production was taken from the month of July. Kashiram Matre filed affidavit of evidence but he was not cross-examined. Dulichand in his cross-examination denies that work was provided to them by rotation of 15 days. Their work of silk work production was carried after beginning of raining season from 15-6 to February. The evidence of Chattarlal, Vishnusingh, Durga Prasad, Premlal, Lakhanlal, Ranjendra and Balakdas is on the same lines. Workmen were engaged as casual employees is not shattered. All the workmen denied that they were engaged as seasonal employees. The evidence of the workman is cogent that after work of production of silk work, during raising season, they were looking after the work of supervision of plantation.

8. Management's witness Debashish in his affidavit has stated that he worked from 1983 to 1991, they were provided work by 15 days rotation. The work was of seasonal nature. Work used to be started from 15th June onwards and continued till January. Work is of seasonal nature. Management's witness in his cross-examination

says the name of workmen were sponsored through Employment Exchange, again contented that names of all workmen were not sponsored by Employment Exchange. He wanted to verify the same from record. he was unable to tell whether appointment letters were given to those workmen. That Shri Pannalal was paid bonus for 3 years. No bonus was paid to others. As they did not continuously worked for 240 days for 2 years. In para-7 of his cross-examination, witness admits those workmen completes 240 days continuous service. Again he corrected that remaining workers have not completed 240 days continuous service therefore bonus was not paid to them. Evidence of management's witness is shattered about completion of 240 days continuous service by workman. In his further cross-examination, management's witness admits Shri Laxmichand completed more than 240 days during 1989 and 1990. Bonus was not paid to him. Management's witness denies that the work is of seasonal nature and if those workers are not working, the work cannot be extracted. Workmen were engaged as casual labour in 1983. They were shown seasonal labours in the year 1999. Any document is not issued in that regard. Casual labours were CL, Medical allowances and bonus was paid to them. Medical allowance was also paid to employees working in the plantations. That Dalchand, Tilakram are junior to workman were regularized. One of them died and appointment on compassionate ground has been made. It is clear from evidence in cross-examination of management's witness that workmen were shown seasonal worker in 1999. Prior to them, they were working as casual employees. Management's witness has not produced any record about the working days of workman. IInd party has not produced any documents regarding the working days of workman from 1983 to 1999 when Ist party workmen are shown as seasonal labours. Record of enquiry is also not produced on record. the record about working days of Ist party workmen is not produced. Therefore evidence of workmen that they were working continuously working from 1983 to 1999 cannot be disbelieved. Witness of IInd party has not produced any record that it was working as seasonal establishment. The evidence of all workmen discussed above that they worked more than 240 days during each of the year is not shattered in their cross-examination. IInd arty has not produced any record like muster roll, register of payment of wages to establishment that all those workmen were not continuously working. They were working by rotation of 15 days during the season. In absence of such evidence, I find no reason to disbelieve evidence of workman. Ist party workmen are working with IInd party as labour from 1983, 1985 to 1995. Their services are not regularized. Therefore the benefit of permanency is denied to the workman. IInd party has not registered as seasonal establishment. No documentary evidence is produced in that regard. The evidence of the Ist party workmen that after the period of silk worm production, they were looking after the work of supervision

of plantation is not shattered. The evidence of the Ist party workman that after the period of silk production from June to Feb, they were looking after the plants cannot be disbelieved. The plantation for production of silk work cannot be grown within short season period. Growing plantation for silk work and maintaining it appears of permanent nature. It cannot be said seasonal. Therefore I donot find substance in the contentions of IInd party. For above reasons, I record my finding in Point No.2 in Negative.

9. Point No.2- in view of my finding in Point No.1, the action of IInd party not regularizing services of workmen after completion of 240 days continuous service is not proper and legal. The workmen after completion of 240 days continuous service are entitled to status of regular employee in view of Section 25 B of I.D.Act. accordingly I record my finding in Point No.2.

10. In the result, award is passed as under:-

- (1) The action of the Joint Director, Central Silk Board, Raigarh in not regularizing not converting as a permanent time rated employee in respect of Shri Laldas Barekar S/o Shri Bachan Lal and 18 others after completion of attendance of more than 240 days is not legal and proper.
- (2) Ist party workmen Shri Laldas Barekar, Kheldas Barekar, Channulal Rangangdale, Gangadas Barekar, Heeralal Uikey, Laxmichand Katre, Pannalal Kosre, Ghurunlal, Suralal Bisen, Kashiram Matre, Dulichand Patle, Chattarlal Kawre, Rudhanlal Meshram, Vishnusingh uikey, Durga Prasad Sarnagat, Premlal Choudhary, Ranjendra Daharwal, Lakhanlal Khairwer and Balakdas Barekar are entitled to be status of regular employee of IInd party. Consequential benefits from the date of order of reference i.e. 30-1-02 be given.

R. B. PATLE, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2014

का.आ. 26.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. ई. सी. एल., के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 31/1996) को प्रकाशित करती है जो केन्द्रीय सरकार को 24/12/2014 को प्राप्त हुआ था।

[सं. एल-22012/214/1995-आईआर (सी-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 24th December, 2014

S.O. 26.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 31/1996) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the management of Bijuri Sub Area of SECL, and their workmen, received by the Central Government on 24/12/2014.

[No.L-22012/214/1995-IR(C-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/31/96

Shri Barelal Kewat, Ex Loader,
C/o Shri M.L.Jain, Advocate,
Near Panchayati Mandir,
Shahdol

... Workman

Versus

Sub Area Manager,
Bijuri Sub Area of SECL,
Post Bijuri Colliery,
Distt. Shahdol

...Management

AWARD

Passed on this 4th day of December 2014

1. As per letter dated 30-1-96 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/214/95-IR(C-II). The dispute under reference relates to:

“ Whether the action of the Sub Area Manager, Bijuri Sub Area of SECL in dismissing Shri Barelal Rawat S/o Shri Babuli, Loader Bijuri colliery from company services w.e.f. 4-2-93 is legal and justified? What relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 3/1 to 3/5. Case of workman is that Ist party Barelal was employed in Bijuri colliery as Loader from 1984. He was continuously working to the satisfactory of his superiors. On 3-7-89, workman was informed by Sr. personal manager about complaints against him alleging that he was working on fake name. that his correct name was Chamru S/o Duma Kewat. Allegations in said complaint was inquired by Sr. Personal Manager. Workman was called to produce certificate issued by Village Sarpanch or any other competent authority identifying him. He was also informed otherwise complaint will be presumed to be true and disciplinary action for committing forgery would be initiated.

3. Workman submits that after receiving said communication, he produced certificate issued by Gram Panchayat, Kothi ad affidavit, his photograph attested by Sarpanch, enquiry was concluded. Workman was exonerated. After long time more than 14 years, again workman was served with letter dated 4-2-93 terminating his services with immediate effect on the basis of enquiry conducted behind his back secretly. Workman submits that he challenged order of his termination before Hon'ble High Court, Jabalpur in Petition No. 26282/93. In said Writ petition, directions were issued to conciliate the matter before ALC. The conciliation failed when the dispute has been referred.

4. Workman submits that Dy.General Manager held him guilty without holding enquiry. Claim of management about holding domestic enquiry cannot be imagined. Termination/dismissal of his service without giving opportunity for his defence is illegal. It is in violation of natural justice. That initiation of fresh proceeding after 14 years amounts to jeopardie. Entertaining complaints after 14 years and conducting enquiry is illegal. On such grounds, workman is praying for his reinstatement with backwages.

5. IInd party filed Written Statement at Page 8/1 to 8/4 opposing relief claimed by workman. IInd party did not dispute workman was appointed as labour in Bijuri colliery on 27-4-84. That IInd party was not supplied with copy of the letter dated 3-7-89 alleged to have been issued by Sr. Personal Manager. Therefore comments in that regard are not given. IInd party was also not supplied copies of certificate issued by Sarpanch, Gram Panchayat and copy of affidavit. Therefore IInd party reserved its comments on above points. As per contentions in statement of claim of workman, enquiry conducted in 1989 and he was terminated in 1993. The period comes only 4 years and not 14 years as claimed by him. It is further submitted that SECL acquired land of Behraband Pilot Mine which as per guidelines of MP Rehabilitation Scheme, a land oustee or his representative was to be given employment. Shri Chamru represented himself to be Borelal and secured employment in the mine. On 24-7-84, complaint was received from Kamla S/o Bisahu Kewat and six others addressed to Chief Vigilance Officer dated 12-12-92. It was alleged in the statement of claim that Borelal has secured employment by personation, his correct name is Chamru. He obtained employment fraudulently. That after receiving complaint, enquiry was conducted on 2-1-93 by Officer Sinha, Dy. CME, Narayan Jha Manager, Beby Singh, Dy.Personel Manager. Enquiry Report was submitted on 2-1-93. It was found that Borelal has personated. His correct name was Chamru. After considering findings of Enquiry Committee, workman was terminated. It is submitted that workman secured employment by Practicing fraud. No chargesheet was issued to him as said act is not covered as misconduct. Workman was given opportunity for his

defence. On such ground, IInd party prays for answering reference in its favour.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---------------------|
| (i) Whether the action of the Sub Area Manager, Bijuri sub Area of SECL in dismissing Shri Barelal Rawat S/o Shri Babuli, Loader Bijuri colliery from company services w.e.f. 4-2-93 is legal and justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

7. Workman is challenging termination of his service on the ground of securing employment fraudulently by personation. IInd party filing Written Statement supports the order of termination of workman. The order of termination of workman Exhibit W-1 is admitted by IInd party.

8. Workman filed affidavit of his evidence. Workman has stated that in the year 1989 some one had complained that he secured employment with his wrong name of Borelal. Workman had produced certificate of Gram Panchayat, his personal affidavit with photograph is also produced by him. He was exonerated from the allegations in complaint. After 14 years, again false complaint was filed and he was terminated vide order dated 3-2-93. He has stated that order was passed. Workman says that his name is Borelal Alias name is Chamru name of his father is Babuli alias Deena. His services were terminated in violation of natural justice on false complaint. He was not given opportunity for his defence.

9. In his cross-examination, workman says he got service after interview. He doesnot know contents of his affidavit. He got service in 1983-84. After interview, document was not received by him. appointment letter was received by post. He further says that he is resident of Jamunia Tola earlier district shahdol presently called as Annupur. Name of his father is Deena alias Baboli. He is only son of his father. He has two sisters Munni and Billu, both are married. His elder sister is married at Pipara Mantolia, Kothi. He denies that he got service as land oustee. His land was not found satisfactory. However no chargesheet was issued to workman. Witness further says workman was not given opportunity for his cross-examination. Witness of management has deposed adverse to IInd party. He was cross-examined by counsel for IInd party Shri A.K.Shashi. in his cross-examination by counsel for IInd party above witness says he is working as General Manager of SECL. Report M-3 given by him is correct.

Statement of Borelal was recorded. In his cross-examination the witness says signature of workman was not obtained in Exhibit M-3 therefore credibility of report Exhibit M-3 is not free from suspicion. Management's witness Khemlal and Samlu, Borelal in their affidavit of evidence have stated that workman secured employment in name of Carelal. His name was chamru. Kamla in his cross-examination says that documents of election name of workman is recorded as Borelal is not known to him. he admits that he has quarrel with chamru w.r.t. light. Proceedings are pending. His house is adjoining to house of Chamru. Samru did not appeared in cross-examination. Babulal in his cross-examination says that his name was not registered in Employment Exchange office. He did not complained that workman had secured employment in his name. he did not report to police that there is no person by name Chamru in his village. That Chamru has two sisters Bitti and Nanbai. The evidence of management's witnesses is not consistent. MW-1 has enmity with Chamru w.e.f. land dispute. Document Exhibit M-2 voer list name of Chamru is appearing at Sl.No.151 name of Barelal is Sl.No.143. volume of documents are produced by workman – ration card, Identity Card, Marksheet . In all, his name is recorded as Borelal. The evidence adduced by management is not sufficient to hold that name of workman is not Borelal S/o Baboli. Management's witness Shri Borelal himself says that he did not complained to police. IInd party has not produced documents about land of Shri Chamru for mine and the workman was appointed as land oustee. Therefore the ground for termination of workman are not justified. for above reasons, I record my finding in Point No.1 in Negative.

10. Point No.2- the allegation in complaint received by management that workman secured employment by personation in name of Borelal are not established. The documents about appointment of workman as land oustee are not produced. However the workman is terminated after complaint was received about securing employment by personation. The Fact Finding Committee was constituted. After receiving report, services of workmen were terminated. Management has justified reasons for termination but reasons are found not proved therefore the workman deserves reinstatement but without back wages. Accordingly I record my finding in Point No.2.

11. In the result, award is passed as under:-

- (1) Action of the Sub Area Manager, Bijuri sub Area of SECL in dismissing Shri Barelal Rawat S/o Shri Babuli, Loader Bijuri colliery from company services w.e.f. 4-2-93 is not legal and proper.
- (2) IInd party is directed to reinstate workman with continuity of service but without backwages.

R. B. PATLE, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2014

का.आ. 27.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यू. सी. एल., के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 106/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 24/12/2014 को प्राप्त हुआ था।

[सं. एल-22012/579/1999-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 24th December, 2014

S.O. 27.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 106/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mohan Colliery of WCL, and their workmen, received by the Central Government on 24/12/2014.

[No. L-22012/579/1999-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/106/00

The President,
Coal Mines Engineering
Workers Association,
PO Palachourai,
Distt. Chhindwara (MP) ...Workman/Union

Versus

The Manager,
Mohan Colliery of WCL,
Po Junnardeo,
Distt. Chhindwara ...Management

AWARD

Passed on this 2nd day of December, 2014

1. As per letter dated 20-6-00 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-22012/579/99/IR(CM-II). The dispute under reference relates to:

“ Whether the action of the management of Mohan Colliery of Ambara Sub Area of WCL, PO Ambara,

Distt. Chhindwara (MP) in not promoting Shri S.K.Sahota, Elec. Foreman Grade B as Elec. Supervisor Grade-A is justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim through Coal Mines Engineering workers Association at Page 3. Case of Ist party workman is that workman Shri S.K.Sahota was appointed on 1-1-1973 as electrician Category IV. His date of birth was 29-4-44. On 1-1-1974, he was transferred to Mohan Colliery, WCL. After completion of 15 years service, he was promoted on 8-4-88 as Electric Foreman Grade B in pay Scale Rs. 810-1586. That Shri S.K.Sahota Electric Foreman was working as Electrical Supervisor Grade A Foreman in-charge from 1988. Work of Electric supervisor Grade A was extracted from him at Moari Project, Mohan Colliery and other collieries. That as per circular issued by WCL, Nagpur dated 26-12-89, the work for 3 years on Grade B post, promotion to the post of Supervisor Grade A is required to be given. Workman was not given promotion to Electric Supervisor Grade A. Ist party is praying promotions to the post of Supervisor Group A with consequential benefits.

3. IInd party management filed Written Statement at Page 4/1 to 4/4. Claim of Ist party workman is opposed. It is submitted that service conditions of employees in Coal Industry are covered by NCWA. Joint Bipartite committee for coal industry consisting representations of management and Central Trade Union namely INTUC, HMS, BMS, AITUC & CITU. The Joint Bipartite Committee issues instructions for implementing the provisions of NCWA. Shri S.K.Sahota was working as Foreman Electrical at Mohan Colliery. The promotional channel of employees working in E & M Personnel are given cadre scheme attached with NCWA. As per cadre scheme for E & M (Personnel)- for promotion from post of Electrical Helper to post of Foreman Incharge or Electrical Supervisor Grade A, the person should be qualified with electrical Supervisor's Certificate Mining and Electrical Supervisor's Certificate surface along with requisite experience in T & S Grade B. persons possessing supervisor's certificate in mining is entitled for promotion up to T&S Grade B as Foreman. Unless a person possess both supervisor's certificate in mining and supervisor's certificate in surface, he is not eligible for promotion to the post of Electrical supervisor in T&S Grade A. that Shri S. K. Sahota possess Electrical Supervisor certificate in Mining part only. He is not eligible for promotion to the post of Electric Supervisor T&S Grade A. It was the reason workman was not considered by DPC held at area level. Workman holds certificate of electrical Supervisor in Mining. He was given promotion to the post of Foreman Electric T&S Grade B. he was not considered for post of Electric Supervisor Grade A. Above contentions are reiterated by IInd party emphasizing that as workman is not holding certificate of

Electric Supervisor Surface is not entitled to promotion. The promotion cannot be claimed as right. The promotions are based on consideration of eligibility, qualification required experience of suitability. Availability of vacancy, administrative requirement.

4. The appointment and transfer to Mohan Colliery of workman is not disputed. The promotion of workman to the post of electrical Supervisor Grade B is also not disputed. Workman was authorized to hold post of Electrical Supervisor. He was not authorized to hold post of Electric Supervisor T&S Grade A. while passing of certificate of Electrical Supervisor, the workman was working as Asstt. Foreman in T&S Grade C. With respect to circular dated 26-12-89 by Personnel Manager, WCL, Nagpur, IInd party submits that said circular is clear that growth of Electric Supervisor T&S Grade B will be given in accordance with the cadre scheme. As per cadre scheme, workman was promoted to Electric Foreman T&S Grade B. as workman was not possessing required qualification, he was not entitled to post of Electric Supervisor T&S Grade A. on such ground, IInd party prays that reference be answered in its favour.

5. Ist party workman submitted rejoinder at Page 5/1 to 5/2 reiterating its contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|---------------------|
| (i) Whether the action of the management of Mohan Colliery of Ambara Sub Area of WCL, PO Ambara, Distt. Chhindwara (MP) in not promoting Shri S.K.Sahota, Elec. Foreman Grade B as Elec. Supervisor Grade-A is justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

7. Though workman is claiming promotion to the post of Electric Supervisor Grade A, he has pleaded in statement of claim that as per Circular dated 26-12-89, after working for 3 years in Grade B, promotion to the post of Grade A Electric Supervisor was required to be given. Said circular is not produced by workman. Workman has not adduced evidence in support of his evidence. However the documents produced by workman are admitted by IInd party. Exhibit W-1, 1-A is authorization certificate issued to workman as Electric Supervisor. Exhibit W-1(b) workman was appointed as workmen Inspector(Elec.), Mohan colliery on 19-2-90. Exhibit W-1(c) workman was authorized to look after functions of 11-12 Incline along with duties assigned at Maori Incline. Exhibit W-1(d) – workman was

authorised to substitute workmen Inspector electrical during absence of Shri Safut Khan W.I (Elec) under Mines Rules. Exhibit W-1(e) workman S.K.Sahota was transferred to Sub-Station on 8-12-00. Exhibit W-1(f) workman was appointed and authorized as electrical Supervisor Mohan Colliery in 1988. Exhibit W-2 is office order workman Shri S. K. Sahota was promoted to Electrical T&S Grade B on 8-4-88. Exhibit W-3 is competency certificate issued by MP Board for Electrical Instruments Mining. Documents at Page 5/4, 5/5 admitted by IInd party are not legible.

8. Management produced cadre scheme at Exhibit M-1. In Para 3.1 provides- The promotional channel for various categories of Electrical and Mechanical discipline shall be as per annexure hereto. The said annexure only indicate the qualifications and experience to be possessed by the Departmental candidates included in the cadre from time to time for the purpose of eligibility for selection/promotion of candidates as specified in the scheme. Annexure VII in the cadre scheme at Sl.No.7 related to Foreman Incharge Grade A Pay Scale Rs. 1387-75-2137-80-2537, minimum qualification required is matriculate and Electrical Supervisor Certificate valid for mines. Eligibility for promotion 3 years experience as Foreman Electrical. Annexure VII doesnot prescribe that candidate should possess qualification matriculate and electrical supervisorship certificate (surface). Exhibit M-2 is competency certificate issued to workman in mining. Office order Exhibit M-3 shows that as per order dated 16-2-96 on recommendations of DPC, the candidates were promoted to post of Foreman Electrical T&S Grade B were promoted to the post of Foreman Incharge Grade A. name of Ist party workman is not appearing in said order. 9 persons were promoted. The copy of recommendation of DPC Committee is produced at Exhibit M-3. The cadre scheme for Foreman Incharge, the minimum qualification for Foreman Incharge T&S Grade A is shown Matric and electrical Supervisor Certificate valid for mines. The experience 3 years as foreman electrical. Mode of promotion DPC/Trade Test. The said document also doesnot show that certificate of electrical Supervisor Surface is required for promotion to the post of electrical Supervisor, T&S Grade A. Thus contentions of IInd party on above point are not supported by any of the documents.

9. Management's witness Jeetendra Prasad in affidavit of his evidence stated that the employ should have obtained electrical Supervisor Certificate in both part i.e. mining and surface part after acquiring requisite experience in T&S Grade B and qualification is entitled for promotion to the post of Electrical Supervisor in T&S Grade A. Unless and until a person possess both supervisor's certificate in mining and supervisors certificate in surface is not eligible for promotion to the post of electrical Supervisor in T&S Gr-A. In his cross-examination, management's Witness says promotion in Grade B clears experience in passing

matric and electrical supervisor Certificate are necessary. That those circular was issued providing experience promotions from Grade C to B. The qualifications are not for promotion from Grade B to A. said circular is not produced by management. Documents Exhibit W-1(a) to (e) shows that workman was authorized to work as electrical Supervisor. Workman was promoted to the post of Foreman Electrical T&S Grade B from 8-4-88- Document Exhibit W-2. He was not considered for promotion to the post of Electrical Supervisor Grade A when 9 other employees were promoted as per order dated 16-2-96 Exhibit M-3. The contentions of IInd party that for promotion to the post of Electrical Supervisor Grade A, the competency certificate Electrical Supervisor Mining and surface are required is not supported by any documents produced on record. The document on record clearly shows that workman was wrongly denied promotion to the post of Electrical Supervisor Grade A for the reasons that he was not holding competency certificate of Electric Supervisor T&S Surface. The requirement of such certificate is not established from any of the documents discussed above. For above reasons, I record my finding in Point No.1 in Negative.

10. Point No.2- in view of my finding in Point No.1, workman is wrongly denied promotion to the post of Electrical Supervisor T&S Grade A, when other persons were promoted to the said post on 16-2-96, workman was promoted to Electrical Grade B in 1988. He had experience more than 7 years but he was not considered for promotion. Therefore workman who was illegally denied promotion to the post of Electrical Supervisor Grade A was discriminated illegally, workman Shri S.K.Sahota therefore deserves promotion to the post of Electrical Supervisor T&S Grade A w.e.f. 16-2-96 when other persons were promoted. However the order of reference was made on 20-6-00 therefore the workman cannot be given benefit of promotional post retrospectively. The benefit to the promotional post needs to be given from date of order of reference. Workman is entitled to be considered for promotional post of Electrical Supervisor T&S Grade A from 20-6-00. Accordingly I record my finding in Point No.2.

11. In the result, award is passed as under:-

- (1) The action of the management of Mohan Colliery of Ambara Sub-Area of WCL, PO Ambara, Distt. Chhindwara (MP) in not promoting Shri S.K.Sahota, Elec. Foreman Grade B as Elec. Supervisor Grade-A is not proper and legal.
- (2) IInd party is directed to consider Ist party workman Shri S.K.Sahota for promotion to the post of Electrical Supervisor T&S Grade A from 20-6-00 with consequential monetary benefits.

R. B. PATLE, Presiding Officer

नई दिल्ली, 24 दिसम्बर, 2014

का.आ. 28.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. ई. सी. एल., के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 170/93, 175/93, 176/93 एण्ड 177/93) को प्रकाशित करती है जो केन्द्रीय सरकार को 24/12/2014 को प्राप्त हुआ था।

[सं. एल-22012/284/1993-आईआर (सी-II)

सं. एल-22012/152/1993-आईआर (सी-II)

सं. एल-22012/153/1993-आईआर (सी-II)

सं. एल-22012/156/1993-आईआर (सी-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 24th December, 2014

S.O. 28.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 170/93, 175/93, 176/93 & 177/93) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of SECL, and their workmen, received by the Central Government on 24/12/2014.

[No. L-22012/284/1993-IR(C-II)

No. L-22012/152/1993-IR(C-II)

No. L-22012/153/1993-IR(C-II)

No. L-22012/156/1993-IR(C-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, JABALPUR**

PRESIDING OFFICER : SHRI MOHD. SHAKIR HASAN**CASE NO. CGIT/LC/R/170/93**

Shri Ramdhani, S/o Daneshwar,
PO Batgaon Colliery,
Distt. Surguja

...Workman

Versus

General Manager,
Bisrampur area of SECL,
PO Bisrampur Colliery,
Distt. Surguja (MP)

...Management

CASE NO. CGIT/LC/R/175/93

Shri Roop Sai,
S/o Shri Gwaluram
Rajnishore Nagar, PO Batara
Distt. Surguja

...Workman

Versus

General Manager,
Bisrampur area of SECL,
PO Bisrampur Colliery,
Distt. Surguja (MP)

...Management

CASE NO. CGIT/LC/R/176/93

Shri Mohar Sai, S/o Shri Amarsai,
Vill Sudamanagar, PO Batara
Distt. Surguja

...Workman

Versus

General Manager,
Bisrampur area of SECL,
PO Bisrampur Colliery,
Distt. Surguja (MP)

...Management

CASE NO. CGIT/LC/R/177/93

Shri Somar Sai,
S/o Shri Sobhit Ram,
Vill Sirki, PO Batara,
Distt. Surguja

...Workman

Versus

General Manager,
Bisrampur area of SECL,
PO Bisrampur Colliery,
Distt. Surguja (MP)

...Management

AWARDPassed on this 8th day of December, 2014

1. (a) The Government of India, Ministry of Labour vide its Notification No.L-22012/284/93-IR(C-II) dated 26-8-93 has referred the following dispute for adjudication by this tribunal:-

“ Whether the action of the Sub-Area Manager, Bhatgaon Sub-Area of Bisrampur Area of SECL in not giving an opportunity to the following retrenched workers to offer themselves for re-employment is legal and justified? If not, to what relief these workers are entitled to?”

1. Shri Ram Dhani S/o Dhaneshwar, 2. Shri Nandlal S/o Manbodh, 3. Shri Sahal Ram S/o Sobaran, 4. Shri Ram Prasad S/o Dalsai.
- (b) The Government of India, Ministry of Labour vide its Notification No.L-22012/152/93-IR(C-II) dated 1-9-93 has referred the following dispute for adjudication by this tribunal:-

“ Whether the action of the Sub-Area Manager, Bhatgaon Sub-Area of Bistrampur Area of SECL in not giving an opportunity to the following retrenched workers to offer themselves for re-employment is legal and justified? If not, to what relief these workers are entitled to?”

1. Shri Roop Sai, S/o Gawaturan, 2. Shri Jagmohan S/o Shri Sohanran, 3. Shri Suran Sai S/o Shri Sawrupan, 4. Shri Chetan S/o Baldeo.

- (c) The Government of India, Ministry of Labour vide its Notification No.L-22012/153/93-IR(C-II) dated 1-9-93 has referred the following dispute for adjudication by this tribunal:-

“ Whether the action of the Sub-Area Manager, Bhatgaon Sub Area of Bistrampur Area of SECL in not giving an opportunity to the following retrenched workers to offer themselves for reemployment is legal and justified? If not, to what relief these workers are entitled to?”

1. Shri Suri Mohar Sai, S/o Amarsai, 2. Shri Ram Dil, S/o Shri Chanduwa, 3. Shri Jaikaran S/o Jailal, 4. Shri Bolsai, S/o Ramphal.

- (d) The Government of India, Ministry of Labour vide its Notification No.L-22012/156/93-IR(C-II) dated 1-9-93 has referred the following dispute for adjudication by this tribunal:-

“ Whether the action of the Sub-Area Manager, Bhatgaon Sub-Area of Bistrampur Area of SECL in not giving an opportunity to the following retrenched workers to offer themselves for re-employment is legal and justified? If not, to what relief these workers are entitled to?”

1. Shri Somar Sai S/o Sobheet Ram, 2. Shri Hiralal S/o Jokhanram, 3. Shri Bhagat Ram S/o Sivratana, 4. Shri Daduram S/o Ranjit.

2. The terms of reference relates to identical matter but names of employees are varying. All those reference were clubbed together for hearing and disposal as per order dated 13-7-95. R/170/93 is treated as leading case. The evidence of parties is recorded in it.

3. Statement of claim is submitted by Ist party workman in R/170/93 at Page 5 to 7, identical statement of claim are submitted by workman at R/175/93 at Page 2/1 to 2/2, R/176/93 at 2/1 to 2/2 & R/177/93 at page 2/1 to 2/2. Case of Ist party workman in all cases is that they were employed with Party No.2 during 1982 to 1987 at Bhatgaon Colliery as casual labours. They were getting bonus for the period 1984 to 1986. Their services were terminated in violation of Section 25-F of ID Act, which amounted to unfair labour practice, retrenchment of their service is illegal. That those workmen were not paid retrenchment compensation,

certificate of retrenchment was not given to them. IInd party did not prepare any seniority list of retrenched persons so that Ist party could be re-employed. That Ist party workman have not been reinstated or re-employed by IInd party though IInd party required new hands day to day right from 1987 thereby IInd party is alleged to have violated Section 25 H of I.D.Act, it is further submitted that junior labours Vishwanath, Vishwanath Toppe, Anirudh, Kuleshwar, Jeetram unskilled labour are given employment by IInd party ignoring their seniorities. Principles of first come last go was not followed by IInd party. On such grounds workman prays for reinstatement with back wages.

4. Statement of claims are also submitted by individual employees Nandlal, Ramdhani in R/170/93.

5. IInd party submitted Written Statement in R/170/93 at Page 165 to 171. Identical Written Statements are submitted by IInd party in R/175/93 at Page 14/1 to 14/4, in R/176/93 at Page 13/1 to 13/4, in R/177/93 at Page 7/1 to 7/4. The contentions of IInd party in all references is similar. That SECL is a company registered under company's Act. Project is colliery under SECL. Casual workers are engaged for carrying out work of civil and miscellaneous nature of company work. Their services are terminated automatically when the work ends. Ist party workman were never appointed by management. They have completed 240 days work at surface or 190 days underground. The details of working days of those workmen in surface are shown in para-7 of the Written Statement in R/170/93. The workman in R/175/93. It is reiterated that workman has not completed 240 days continuous service. That in R/170/93, Ramdhani had completed 195 days in 1981, 191 days in 1982, Nandlal completed 135, 181, 102 days during the year 1981, 82, 83 respectively. Ramprasad completed 116 days in 1981, 166 days in 1982. It is submitted that the services of workmen were terminated as a result of non renewal of contract. It did not amount to retrenchment/ illegal retrenchment. All adverse contentions of workman that they were continuously working from 1982 to 1987 at Bhatgaon is denied. IInd party denies that termination of workman is in violation of Section 25-F of I.D.Act. violation of Section 25-G, H is also denied. IInd party prays that reference be answered in its favour.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- (i) Whether the action of the Sub-Area Manager, Bhatgaon Sub-Area of Bistrampur Area of SECL in not giving an opportunity to the retrenched workers to offer themselves for re-employment is legal and justified?

In Negative

- (ii) If not, what relief the workman is entitled to?" As per final order.

REASONS

7. Learned counsel for Ist party Mrs. Mahawar submits that workman in all above references worked with IInd party from 1982 to 1987. Bonus was paid for the year 1984 & 85. That no bonus was paid in 1987, their services are retrenched without notice. That all those workmen had completed 240 days continuous service. Reliance is also placed on Document M-1 to 103. That juniors Vishwanath and Dhansai and others are continued. That management's witness Shri G.C.Chanda and B.K.Srivastava in evidence deny their signatures on certificates. That juniors are continued. There is no evidence about forgery of certificates. No report was submitted to police in that regard. Learned counsel for IInd party Shri A.K.Shashi submits that muster rolls are not produced. Bonus register shows working days. Juniors are not examined. Exhibit W-1 to W-11 are typed on same date. Shri G. C. Chanda & B. K. Srivastav denied their signatures. Those documents are not examined by handwriting expert. Any of the employees have not completed 240 days continuous working. Workmen were engaged as casuals. Their names were not sponsored through Employment Exchange. Only few workmen have entered in witness box. All the workmen are not examined. There is no evidence on what basis these certificates W-1 to W-11 were issued. That evidence of Ramdhani and others is identical that they worked intermittently during 1983-84 in E&M Section. Payment of wages, the certificate Exhibit W-1 to W-11 relates to period 86-87. Certificates issued by Dy.Chief Mining were that the dispute is raised after 7 years. The terms of reference restricted to denial of re-employment under Section 25 H of I.D.Act. Reliance is placed on certain authorities by counsel for both parties. Learned counsel for workman Mrs.Mahawar pointed out my attention to evidence in cross-examination of Nandlal Witness No.3 Sahalram Ramdeen and others. It is emphasized that muster roll, certificates issued on different dates are not false.

8. Considering tenor of argument, the evidence on record needs to be considered. Shri Ramdhani in his affidavit of evidence claimed that he and other employee Nandlal. Sahalram, Ramprasad, Roopsahay, Jagmohan, Suransai, Ramdin, Jadkaran, Heeralal were working with IInd party from 1982 to 1987 as casual labour at Bhatgaon Colliery. They were paid bonus in 1984-85, 86 but not in 1987. That junior employees Vishwanath, Jokhan, Jeetram were working as watchman semiskilled employees. In his cross-examination, said witness says in 1982-83, he was independently working when the work was available. He was unable to tell his age. He was working in E&M Section as casual labour. He was working under Mr. Chandra. Wages were paid by clerk Vargese. He was paid monthly wages after depositing pay slips. He did not work under contractor. He was unable to tell whether amount of PF

was deducted from his wages. His name was not sponsored through Employment Exchange. After 1987, he was not provided work. Along with him, 33 persons were working. At relevant time, work was continued till 24 hours. He was not able to tell reasons for his discontinuation. He had no quarrel with anyone. Presently he was working with contractor. The labours who were regularized their names were sponsored through Employment Exchange. He was not given Identity Card. He is not educated. He worked continuously for six months. Affidavit of Nandlal is on identical points. In his cross-examination, Nandlal says that he was acquainted with Shri Chandra. He was not working at his residence. Initially he was working under contractor. He was taken on work by Shri Chandra, name of contractor was P. P. Singh, at the time of his evidence, he was working under contractor. His name was not sponsored through Employment Exchange. He was not interviewed. Written appointment letter was not given to him. He was not issued certificate about payment of PF. He received amount of arrears but he was unable to tell his details. That he worked for 7 years during 1980 to 1987. He was submitting the report. Mr. Chandra had stopped him from work. After his discontinuation, the employees were sponsored through Employment Exchange were recorded. Affidavit of witness Shri G.C.Dhandra and B.K.Srivastava are separately filed w.r.t. employees in all matters. Both of them claims that they were not authorized to issue certificates produced by applicants. Those certificates were not issued by them. Mr. Chandra in his cross-examination says in June 1982 he was posted at Bhatgaon Colliery. Prior to it, he was not posted in said colliery. The muster roll in Exhibit M-1 bears his signature w.r.t. contents of Para 1 & 3 of his affidavit, no report was submitted to police. Shri B.K.Srivastava in his cross-examination says from November 1980 to May 88, he was posted at Bhatgaon Colliery. Muster rolls Exhibit M-1 Page 64 to 67 and other pages bears his signature. No report was submitted to police about forgery on the certificates issued and contents of Para 1 & 3 of his affidavit. In his re-examination, Mr. Bannerjee says that at the time of his evidence, he was working in NCL Orissa. Prior to it, he was working in SECL. He got knowledge about production of forged certificates in the year 2000. From 1980 to 88, he was not working as Chief Engineer in Bhatgaon colliery. He did not advise SECL to submit documents to handwriting expert.

9. The record shows that notes of arguments were submitted longback in the year 2006 on behalf of both parties. However affidavit of Nandlal, Sahanram, Ramdeen, Suran Sai., Heeralal, Chetan Sai, Dinesh Kumar, Roop Sai, Jai Karan, Jagmohan are filed in the year 2013. That certificate issued by Dy.Chief Engineer Bhatgaon. From their evidence, documents W-3 to W-11 are proved. In their cross-examination, those witnesses reiterates that those certificates Exhibit W-3 to W-11 were given to them by Chandra and Shri Srivstava. All the witnesses supported

their claim. They have denied suggestion that the certificate produced are false. Shri Suran Sai in his cross-examination says that he cannot tell what is written in affidavit of his evidence. That he was not working at residence of Shri Subhash or Chandra. The certificates were given by both of them. Heeralal in his cross-examination denies certificates were given by Shri Chandra and Sri Srivastava after their retirement. He admits that certificate was given to them so that they can get service. Chetan Sai in his cross examination says that certificate was given to him for getting employment in some other place after getting employment in some other place after giving certificate he was discontinued. Dinesh Kumar was not cross-examined. His evidence remained unchallenged. Shri Roop Sai denies that certificate W-7 is forged. Jaikaran in his cross-examination reaffirms that Exhibit W-8 was given to him by Chandra and Srivastva. Thereafter he was discontinued. Both officers have retired. Jagmohan in his cross-examination was unable to tell Chandra and Shrivastava have retired from service. He denies that he was working at their residence. That certificate Exhibit W-9 bear signature of both the officers. He denies that as he was working at their residence, such certificate was issued. Certificates Exhibit W-3 to W-11 shows that employees were working as casual labours during 1980 to 1987 and payment of bonus during the year 1984, 85, 86. Exhibit W-6 shows Ramdeen was working during 1980 to 1984 as casual mazdoor. Exhibit W-3,5,9 shows they were working as casual employees in 1980 to 1987. The evidence is carefully considered shows those employees are illiterate persons. No report was submitted to police that they had obtained those certificates making forgery. All the certificates are typed bearing signature of Mr. G.C.Chandra, Shri D. K. Srivastava.

10. Shri G. C. Chandra filed affidavit of evidence denying contentions of workman and issue of certificate. In his cross, Shri G.C.Chandra says that certificates W-3 to W-11 must be bearing seal of his office. That he had no knowledge of certificates W-3 to W-11 therefore there was no question of submitting report to police. The copies of muster roll are also produced in the matter. However for want of proper evidence, those documents have not been exhibited. If case of IInd party in Written Statement is considered, that it is pleaded that those workers were engaged as casual workman as per exigencies. The evidence of Ist party workmen cannot be discarded. The evidence on record that those employees were working during 1980 to 1987 cannot be disbelieved.

11. Terms of reference relates to denial of appointment to the retrenched workers to offer themselves for employment. The evidence of all those workmen is cogent that they were discontinued from 1987.

12. Learned counsel for workman submitted citations along with notes of arguments.

In case of Negungadi Bank Ltd. Versus K. P. Madhavankutty reported in AIR-2000-I LLJ 561. Ratio relates to dismissal of employee after enquiry has no bearing to present controversy between parties.

In case of K. Rajan Versus Kerala State Electricity Board reported in 1992 LAB.I.C.1208 Ratio held is w.r.t. Section 2(oo)(bb), Section 25-H retrenchment doesnot include termination of service of workman as a result of non-renewal of contract of employment.

The contentions of IInd party in WS are that the workmen were engaged as casual employees as per exigencies. It is not case of IInd party that workmen were engaged on contract basis for subsequent period. Therefore the ratio cannot be beneficially applied to case at hand.

13. At the time of oral argument, counsel for Ist party Mrs. Mahawar relied on AIR-1986-SC-123, AIR-1966-SC-67. However said citations are not made available. Learned counsel for IInd party A.K.Shashi emphasized that workmen were not retrenched employees and therefore they are not entitled to re-employment provided under Section 25-H of I.D.Act. The evidence of employees is they were working with IInd party from 1980 to 1987. The certificate of working Exhibit W-3 to W-11 donot show working days of the employees.

Section 25 H of I.D.Act provides-

Re-employment of retrenched workmen.- Where any workmen are retrenched, and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment.

The legal position w.r.t. scope of Section 25-H is elaborated in Commentary of I.D.Act by Y.V.Sanyasi Row & Y.Ramesh -IInd Edition Page 367, Note-10 provides. In case employer proposes to take into employment any person, opportunity has to be given to retrenched workman. Continuous service is not a requirement for applicability of provisions of Section 25-G and 25-H.

Said commentary is based on ratio held in case of Balram versus Union of India. Language used in Section 25-H refers to retrenched workman without specifying number of working days. When those employees were working from 1980 to 1987 and they were discontinued, certainly it amounts to retrenchment. The right of re-employment under Section 25-H of I.D.Act is not restricted only to employees illegally retrenched. Therefore, I record my finding in Point No.1 in Negative.

14. Point No.2- in view of my finding in Point No.1 the denial of employment to employees in those references is illegal. However some employees appears to have died. They cannot be re-employed. I record my finding in Point No.2 accordingly.

15. In the result, award is passed as under:-

- (1) The action of the Sub Area Manager, Bhatgaon Sub Area of Bisrampur Area of SECL in not giving an opportunity to the retrenched workers to offer themselves for re-employment is not legal and proper.
- (2) IInd party is directed to provide re-employment under Section 25-H of I.D.Act to surviving workmen in R/170/93, 175 to 177/93 but without backwages.

R. B. PATLE, Presiding Officer

नई दिल्ली, 26 दिसम्बर, 2014

का.आ. 29.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार छावनी कार्यकारी अधिकारी, छावनी बोर्ड, इंदौर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर 41/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-13011/4/2010-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 26th December, 2014

S.O. 29.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. CGIT/LC/R/41/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Cantonment Executive Officer, Cantonment Board, Indore and their workman, which was received by the Central Government on 22/12/2014.

[No. L-13011/4/2010-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/41/2011

PRESIDING OFFICER : SHRI R. B. PATLE

The President,
Cantonment Board Karmchari Sangh,
Mhow ...Workman/Union

Versus

The Cantonment Executive Officer,
Cantonment Board,
Mhow, Indore ...Management

AWARD

Passed on this 11th day of December, 2014

1. As per letter dated 11-5-2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-13011/4/2010-IR(DU). The dispute under reference relates to:

“Whether the workman Shri Rajendra Kumar Varun is entitled for pay scale of Heavy Motor Vehicle Driver as per Memorandum of Settlement between the Employer and Employee? Whether he is entitled for the pay scale of 1150-1800 from 1986 and arrears thereof? If so, what relief he is entitled to?”

2. After receiving reference, notices were issued to the parties. Even after issuing notices, the Union didnot participate in the proceeding, no statement of claim is filed. Ist party is proceeded exparte on 31-1-14.

3. IInd party management also not filed Written Statement. From conduct of the parties, it is clear that the parties are not pursuing or participating in the dispute.

4. In the result, award is passed as under:-

“Reference is disposed off as No Dispute Award for failure of parties to participate in reference proceeding”

R. B. PATLE, Presiding Officer

नई दिल्ली, 26 दिसम्बर, 2014

का.आ. 30.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूरसंचार, बिलासपुर विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर 52/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-40012/419/1999-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 26th December, 2014

S.O. 30.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. CGIT/LC/R/52/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the

employers in relation to the management of the Department of Telecommunication, Bilaspur and their workman, which was received by the Central Government on 22/12/2014.

[No. L-40012/419/1999-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/52/00

Smt. Pratima Mahilong,
Ku. Gitika Mahilong,
Ku. Monika Mahilong LRs of
Deceased Shri Girish Kumar Mahilong,
Near Mahamaya Mandir,
Ganeshnagar,
Bilaspur

...Workman/LRs

Versus

Divisional Engineer,
Telecom Department,
Optical Fibre cable Project,
Rajkishore Nagar,
Bilaspur

...Management

AWARD

Passed on this 8th day of December, 2014

1. As per letter dated 2-3-00 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-40012/419/99/IR(DU). The dispute under reference relates to:

“Whether the action of the management of Divisional Engineer, OFC Project, Telecom Deptt. Bilaspur in terminating the services of Shri Girish Kumar Mahilong, Driver is justified? If not, to what relief the said workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/1 to 3/6. Case of Ist party workman is that he was engaged as Driver in office of Divisional engineer, telephone department, Optical fibre cables, Bilaspur from October 96 to June 98. He worked with devotion. He worked more than 240days during each of the year. In June 1998, his services were orally terminated without assigning any reasons. Termination of his service is in violation of Section 25-F of I.D.Act. he was not given notice, retrenchment compensation was not paid to him. Junior employees were continued after termination of his service. He was not given opportunity of reemployment. As such IInd party violated section 25-F, G, H of I.D.Act.

3. Workman further submits that he was sent for duty outside. He was paid TA, DA. He was also sent for election duty. He has taken entries in logbook. He worked more than 240days continuous service. His services are terminated in violation of Section 25-F of I.D.Act. On such ground, he prays for his reinstatement with back wages.

4. IInd party filed Written Statement at Page 10/1 to 10/3. IInd party submits that Divisional Engineer Telecom Optical fibre Project, Bilaspur comes under Ministry of Communication having independent office of General Manager, Telecom. The nature of work conducted by management is purely execution of projects within definite time. The work of the management is limited. In most of the cases, staff is borrowed from regular establishment. Workman is engaged in Optical fibre in Bilaspur for 4-5 years. The divisional Engineer started project in 1997. He was assisted by 5 Sub Divisional Engineers. It was essential for engineers to be mobile, four wheeler mainly jeeps were borrowed from regular establishment of Telecom Deptt. On top priority, Optical Fibre were required to be laid between Raigarh to Jaspur Nagar. Normally 4 wheelers were lend to management. Driver used to be provided. However in present matter, vehicle was made available. Management was required to engage services of casual labour on daily wages. It is emphasized that the workman was engaged as casual employee. He was not recruited or appointed through Employment Exchange as per recruitment rules. Workman rendered continuous service is denied. That he not completed 240 days. There was no question of termination of his service as the scheme was completed. His services were no longer required. On such ground, IInd party prays reference be answered in its favour.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|---------------------|
| (i) Whether the action of the management of Divisional Engineer, OFC Project, Telecom Deptt. Bilaspur in terminating the services of Shri Girish Kumar Mahilong, Driver is justified? | In Negative. |
| (ii) If not, what relief the workman is entitled to?” | As per final order. |

REASONS

6. Case of Ist party workman is that he was working as Driver from October 96 to June 98. He claims to have completed 240 days continuous service. IInd party denied material contentions of workman.

7. Workman filed affidavit of his evidence supporting his contentions inn statement of claim. That he worked as

Driver of IInd party from October 96 to June 98. He worked more than 240 days. After termination of his service Anandram, Suresh, Prakash, Fularam was engaged as Driver by IInd party. He was not given opportunity to work. Principles of last come first go was not followed. He was not paid retrenchment compensation. Permission for retrenchment was not taken from Government. In his cross-examination workman says his name was enrolled in Employment Exchange. He received information about recruitments in office of IInd party. He was not given appointment letter. He was engaged orally. He was working as Driver since beginning. He says that he cannot tell whether he completed 240 days service but he relies entries in logbook. There is evidence in re-examination, documents Exhibit W-4, 4(a) are proved. The evidence of workman remained unchallenged as management failed to cross-examine workman.

8. The evidence of workman is further supported by documents Exhibit W-1, W-3 certificate of his working days for the period October 96 to June 98. Said certificate is admitted by management. There is no interruption in period of working on workman. The copies of logbook are produced at Exhibit W-4 and management produced the same t Exhibit M-1 to M-18. Those documents corroborates evidence of workman. He was working as Driver. Payment receipts are produced by management at Exhibit M-19 to M-31. The unchallenged evidence of workman corroborated by documentary evidence discussed above is sufficient to hold that workman was continuously working from October 96 to June-98.

9. Management filed affidavit of evidence of witness Shri Y.P Tekame Management's witness says that management was required to execute project of Optical Fibre during the period 4-5 years in 1997. Management was required to engage services of casual labour on daily wages. Workman was engaged as Driver as he possessed Driving Licence. He was appointed on daily wages. He was not sponsored through Employment Exchange. Recruitment rules were not followed in his appointment. Management's witness in his cross-examination says that log book is maintained by Driver. It bears signature of Driver. He cannot identify the signature of workman in Lok Book Exhibit M-p1 to M-18. The project of laying optical fibre of their department was 4-5 years. No document of said project are produced. Workman was not informed in writing that his appointment was for 4-5 years. Witness of management denies workman was working for 25 days every month. As workman remained absent, no departmental procedure was initiated against him. Witness explained that workman was engaged on casual basis, no such proceedings were initiated. Witness of management denies that workman was working as Driver from October 96 to June 98. He was unable to tell when regular driver were absent, workman was engaged in their place. The management's witness was unable to pay from 96 to 98,

how many regular employees were working inn department. From evidence of management's witness, it is clear that he has no knowledge about affairs of office in IInd party. On the other hand, evidence of workman is supported by documents. It is proved that services are terminated without notice, without compensation, though the workman was continuously working from October 06 to June-08 for a period of about 2 years. On the point of proof of completion of 240 days continuous service, initial burden lies on workman and the same shifts on the employee, reliance is placed on ratio held in 2010-MPLJ-457. In present case, the evidence itself is clear about workman and is corroborated by documents that workman completed 240 days service. The termination of services of workman is in violation of Section 25-F of I.D.Act. Therefore I record my finding in Point No.1 in Negative.

10. Point No.2- in view of my finding in Point No.1, termination of service of workman is illegal, question arises whether workman is entitled for reinstatement with backwages. Evidence in cross-examination of workman shows that he was not given appointment letter. He was orally appointed. He was not interviewed before his appointment. Workman was working hardly about 22 months therefore workman cannot be granted reinstatement with backwages. In my considered view, reasonable compensation deserves to be awarded. Considering period of working of workman less than 2 years, compensation Rs. 60,000 would be just and proper. Accordingly I record my finding in Point No.2.

11. In the result, award is passed as under:-

- (1) The action of the management of Divisional Engineer, OFC Project, Telecom Deptt. Bilaspur in terminating the services of Shri Girish Kumar Mahilong, Driver is not proper and legal.
- (2) IInd party is directed to pay compensation Rs. 60,000 to workman within 30 days from the date of publication of award.

In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 26 दिसम्बर, 2014

का.आ. 31.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूरसंचार, बिलासपुर विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर 193/1993) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-40012/81/1992-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 26th December, 2014

S.O. 31.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. CGIT/LC/R/193/1993) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Department of Telecommunication, Bilaspur and their workman, which was received by the Central Government on 22/12/2014.

[No. L-40012/81/1992-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/193/93

Shri Tularam,
S/o Shri Arahit Yadav,
Telegraph Store,
Nr. Railway Post Office,
PO & Distt. Bilaspur(CG), ...Workman

Versus

Sub Divisional Officer (Telegraphs),
Department of Telecommunication,
PO & Distt. Bilaspur (CG) ...Management

AWARD

Passed on this 12th day of December, 2014

1. As per letter dated 17-9-93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-40012/81/92-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Sub Divisional Officer (Telegraphs), Bilaspur in retrenching Shri Tula Ram S/o shri Arhiti Yadav w.e.f. 10-10-90 is justified? If not, to what relief he is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 6/1 to 6/4. Case of workman is that he was employee of IInd party No.2. He was continuously working as casual labour from 2-10-81 to 15-10-90. His services were terminated without enquiry for unauthorized absence. From August 84 to Sept 85- 6 months, from February 86 to November 86-10 months, November 88 to December 88, Feb 89 to June 89. That workman was paid one month's notice pay Rs. 1035/-. He was not paid retrenchment compensation. Workman reiterates that he had completed

240 days continuous service. His services are terminated without enquiry, without paying retrenchment compensation. He was given artificial breaks to avoid regularization in service. Department is introducing contract system in violation of provisions of CL(R&A) Act, 1970. On such ground, workman is praying for setting aside order of his removal from service.

3. IInd party filed Written Statement at Page 4/1 to 4/4 opposing relief claimed by workman. It is submitted that workman was working as casual labour intermittently. The working days from 81-82 to 90-91 re-shown in Written Statement. It is further submitted that workman was not continuously working. He used to remain unauthorisely absent. As per policy laid down by CGMT, Bhopal dated 12-1-90 w.r.t. casual labours, workman could not be retained in service. Workman was paid one month's pay. Workman could not be continued in service. He has unauthorisely absent. It is denied that artificial breaks were given to him. IInd party submits that termination of without is proper and legal.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|----------------------|
| (i) Whether the action of the management of Sub Divisional Officer (Telegraphs), Bilaspur in retrenching Shri Tula Ram S/o shri Arhiti Yadav w.e.f. 10-10-90 is justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?” | As per final orders. |

REASONS

5. In Written Statement filed by management, working days of workman are shown. Workman was discontinued in Sept-90. His working days are calculated till October 89, his working days come more than 240 days during 12 preceding months. Workman filed affidavit of his evidence stating that he was dismissed from service for unauthorized absence. IInd party in Written Statement pleaded that one month's notice pay Rs. 1035/- was paid to workman. Written Statement is silent about any enquiry conducted against workman. The document Exhibit W-1 admitted by workman shows his working days from 1981 to 1985 till December 89. The working days of workman shown in Written Statement till 90-91 are not shown in Exhibit M-1. Workman admits payment of one month's pay. However workman was not paid retrenchment compensation. Calculating his service, workman was working from 1980 to 1990. Evidence of workman in cross-examination shows his name was not sponsored through Employment Exchange. He was not called for interview. He was not medically examined. Appointment letter was not issued to him. he denies that

he was engaged as casual labour intermittently as per exigencies. He admits one month's pay paid to him before termination of his service. Management's witness Shri A. K. Minj tried to support contentions of IInd party that workman did not work continuously remained unauthorized absent. One month's pay was paid to workman before dismissing his service. Written Statement and evidence of IInd party is silent about preparing list of retrenched employees following principles of last come first go as such termination of workman is in violation of Section 25-F of I.D. Act. For above reasons, I record my finding in Point No.1 in Negative.

6. **Point No. 2**—workman was working as casual employee, his name was not sponsored through Employment Exchange. He was not called for interview. Appointment letter was not given to him. However considering his spread over working period from 1981 to 1991 appropriate compensation deserves to be paid. In my considered view, compensation Rs. One Lakh would be appropriate. Accordingly, I record my finding in Point No. 2.

7. In the result, award is passed as under:-

- (1) The action of the management of Sub-Divisional Officer (Telegraphs), Bilaspur in retrenching Shri Tula Ram S/o Shri Arhiti Yadav w.e.f. 10-10-90 is not legal.
- (2) IInd party is directed to pay compensation Rs. One Lakh to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 26 दिसम्बर, 2014

का.आ. 32.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार रेलवे भर्ती बोर्ड भोपाल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर 251/1991) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-42011/42/1991-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 26th December, 2014

S.O. 32.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. CGIT/LC/R/215/1991) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in

the Annexure in the Industrial Dispute between the employers in relation to the management of the Railway Bharti Board, Bhopal and their workman, which was received by the Central Government on 22/12/2014.

[No. L-42011/42/1991-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/215/91

Shri Radhelal Aharwar,
S/o Shri Tulsiram Rag,
Post President, Rashtriya Chaturth
Shreni Rail Mazdoor Congress (INTUC),
4, Heerapura, Jhansi. ...Workman

Versus

President,
Railway Bharti Board,
D-17, Machna Colony,
Shivaji Nagar, Bhopal ...Management

AWARD

Passed on this 2nd day of December, 2014

1. As per letter dated 12-11-91 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-42011/42/91-IR(DU). The dispute under reference relates to:

“Whether the action of the Railway Recruitment Boards in terminating the services of Shri Radheylal Aherwar was justified? If not, to what relief, the workman is entitled?”

2. After receiving reference notices were issued to the parties. Workman submitted statement of claim at pages 3/1 to 3/3. Case of Ist party workman is that he was engaged as casual labour from 1-8-87 by management of IInd party. He completed service more than 120 days as per para 2501 of Railway Establishment Manual. He acquired status of temporary employee. He continuously worked with devotion till 31-1-90. The employee discontinued his service from 1-2-90 without notice or order in writing. That Junior employees were continued in service. Principles of first come last go were not followed. That as per letter dated 2-8-89, the employee had sent him for screening for permanent post. The screening test was conducted of workman. From 22-1-1985, he was working under Railway Selection Board. His services were discontinued from 1-2-90 without any notice is illegal.

3. IInd party further submits that he was not terminated, dismissed or discharged by his employer. Provisions of Section 25-F, H of I.D. Act were not followed while discontinuing his service. Junior employees to work are continued. Any kind of enquiry about misconduct was not conducted against him. Ratio held in various cases is referred by Ist party and it is submitted that workman be reinstated with consequential benefits.

4. IInd party submitted Written Statement at pages 13/1 to 13/3. IInd party submits that as per policy of Railway Board, casual labour cannot be engaged unless he got genuine casual labour card. Genuine card is issued by authority under whom the workman had worked. That many casual labours gain employment as casual labour producing casual labour card never issued by any authority. Workman obtained employment w.e.f. 14-8-87 on basis of card which was not genuine. Workman was issued showcause notice dated 30-3-90 to explain about the service card submitted by him. IInd party submits that the contentions w.r.t. principles about last come first go is denied as misconceived. It is reiterated by IInd party that workman had secured employment on basis of casual service card not issued by the authorities, it was found bogus. Though workman was given opportunity to explain how he obtained casual card, workman had failed to explain. He had no right to continue as casual labour. Workman had not disclosed source of casual card on which he secured employment. It is further submitted that management of IInd party deals with selection and recruitment is not an industry under ID Act. On such contentions, IInd party prays to answer reference in favour of management.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---------------------|
| (i) Whether the action of the Railway Recruitment Boards in terminating the services of Shri Radhey Lal Aherwar was justified? | In Negative. |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

6. Workman is challenging termination of his service alleging violation of Section 25-F, G of I.D. Act. affidavit of his evidence is filed. He has stated that he was working from 1-8-87 as casual labour. He worked more than 120 days as casual labour as per Para 2501 of Railway Establishment Manual. He acquired temporary status. He worked with devotion till 31-1-90. He was discontinued without notice from 1-2-90/. He was not terminated, dismissed or discharged. His discontinuation is in violation of Section 25-F of I.D. Act. Workman further stated that he was called for appointment of casual labour on 12-6-85 having Roll No. 112303. He had successfully passed test. In his cross-

examination, workman says appointment letter was not given to him, termination order in writing was not given to him before his termination. He was not issued showcause notice. He denies that before termination of his service, showcause notice about fake service card was issued. After termination of his service in 1990, he submitted representation to management. Any document in that regard is not produced. Workman has produced document Exhibit W-1, call letter for test conducted on 26-8-85. Exhibit W-2 Medical Fitness Certificate. W-3 call letter dated 12-6-85, W-4 to W-6 are copies of Railway Passes. W-1 & W-3 shows that the candidates belonging to SC were given benefit of one side travelling expenses.

7. Management's witness Shri Sadhna Bhargav in his affidavit of evidence says letter was sent to workman on 21-8-87 calling his explanation about casual card No. 463576. As per letter dated 15-1-90, Sr. Divisional Account Officer Jhansi informed that casual labour card No. 463576 was bogus and directed to initiate action against concerned person. As per letter dated 30-3-90, workman was called to explain about bogus card within 7 days. Workman had not submitted his explanation.

8. Management's witness in his cross-examination says that disputed casual card is not produced. She claims ignorance about said card. That casual card must have been seized by Account section. She has no personal knowledge about it. The casual card was issued by Jhansi office. She was not working in Jhansi office at relevant time, she was working in Bhopal office from March 09. She was not working when documents M-1 to M-3 were issued. She has no personal knowledge about those documents. Her affidavit is filed as per office record. as per record, workman was working from 14-8-87. She claims ignorance when his services were terminated. She claims ignorance whether any enquiry were conducted before terminating services of workman. The documents regarding termination of services of workman were not available. Evidence of workman that as per Para 25-1 of Railway Establishment Manual, the acquired status of temporary employees is not shattered in his cross-examination. When workman was working from 14-8-87 and his services were discontinued from 1-1-1990, it is clear that as per Para 2501 of Railway Establishment Manual, workman had acquired status of temporary employee without conducting any kind of enquiry whether casual service card produced by him was bogus, his services were terminated. The notice alleged to have been issued on 30-3-90 is not produced on record. workman says that his services are terminated from 1-2-90. Even if contentions of IInd party are accepted such notice is received on 30-3-90 would certainly be subsequent to termination of his service. Notice is produced at Exhibit M-3 is subsequent act after termination of service of workman to cover up termination of his service. The legal position is clear that the employ acquiring temporary status in service cannot be terminated

without enquiry. IInd party has not conducted any enquiry against workman before terminating his services, therefore termination of workman cannot be said proper and legal. For above reasons, I record my finding in Point No.1 in Negative.

9. Point No.2- Termination of services of Ist party workman is found illegal as per my finding in Point No.1, question arises whether workman is entitled for reinstatement with backwages. He prays for reinstatement. Workman has not disclosed whether he was employed or unemployed after termination of his service. The evidence of management's witness Sadhna is also silent whether workman was in gainful employment after termination of his service. Considering above aspects, in my considered view, reinstatement of workman with 20 % backwages will be appropriate. Accordingly, I record my finding in Point No. 2.

10. In the result, award is passed as under:-

- (1) The action of the Railway Recruitment Boards in terminating the services of Shri Radheylal Aherwar is not proper and legal.
- (2) IInd party is directed to reinstate workman with continuity of service and 20 % back wages.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 26 दिसम्बर, 2014

का.आ. 33.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड, रायपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर 70/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[फा. सं. एल-40012/63/2009-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 26th December, 2014

S.O. 33.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. CGIT/LC/R/70/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Ltd., Raipur and their workman, which was received by the Central Government on 22/12/2014.

[No. L-40012/63/2009-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/70/09

Shri Subhash Kumar Thakur,
S/o Shri Damodaran Thakur,
C/o Shri pramod Singh,
Advocate, Choprapara, Ambikapur,
Surguja (CG) ...Workman

Versus

Chief General Manager,
Telecom, BSNL,
Chhattisgarh Telecom Circle,
Raipur.

The Telecom District Manager,
BSNL, Behind Doorsanchar Bhawan,
Ambikapur, Chhattisgarh ...Management

AWARD

Passed on this 10th day of December, 2014

1. As per letter dated 24-7-09 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-40012/63/09-IR(DU). The dispute under reference relates to:

“Whether the contract between the management of BSNL, Ambikapur and their contractor with regard to employment of Shri Subhash Kumar Thakur is sham and bogus? If yes, whether the action of the management in terminating his services w.e.f. 9-5-08 is legal and justified? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at pages 1 to 4. Case of Ist party is that he was employed as Motor Driver in 96 to drive State owned Vehicle MP 27 B-4455 by DTO Office of Telecom District Engineer, Ambikapur. That after formation of BSNL, his services were utilized by the office of IInd party for various offices. The pay of Ist party was increased to Rs.3500 per month from May -08. Workman submits that there was no contract in existence in the year 2000-01. Workman was employed in BSNL office, Ambikapur. He worked without break for 12 years against sanctioned post of Driver. He had continuously worked more than 240 days during each of the calendar year 96 to 2008. Workman had tried for his absorption against vacant post of Driver in BSNL Office, Ambikapur. However he was not regularized by the management on the ground that he was outsider. That suddenly he was terminated without notice. Workman

claims ignorance about reasons for his termination. He submits that his termination is in violation of Section 25-F of I.D.Act. It amounts to retrenchment. That more than 1000 employees are working with IInd party. IInd party has terminated him from service as he had participated in formation of BSNL Theka Mazdoor Union Registration No. 197 under Trade Union Act 1926. That said Union had submitted charter of various demands. It was the reason for his termination. Ist party workman further reiterates his termination is without notice. No retrenchment compensation is paid to him. IInd party has violated Section 25-F, G, H of I.D.Act. He prays for his reinstatement with back wages.

3. IInd party filed Written Statement opposing claim of workman. It is denied that initially workman was engaged as Motor Driver in 1996 by DOT Ambikapur. That instructions are issued by Govt. of India dated 30-3-85 to stop fresh recruitment of casual labours for any kind of work. The workman was not employed in DOT Office. That on 1-10-00, after formation of BSNL, services of workman were utilized. He was deployed by contractor for specific work on required basis. The wages were being paid to contractors who was awarded contract of caretaking and house keeping. As workman was never appointed by department, there was no question of his termination or removal from service. As workman was not regular employer in department, there is no question of his termination or illegal retrenchment. Workman never represented his grievance before management orally or in writing. IInd party denies violation of Section 25-F, G, H, N of ID Act.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|---------------------|
| (i) "Whether the contract between management of BSNL Ambikapur and their contractors w.e.r. employment of Shri Subhash Kumar Thakur is sham and bogus?" | In Affirmative |
| (ii) Whether the action of the management in terminating his services w.e.f. 9-5-08 is legal and justified? | In Negative |
| (iii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

5. Point No.1, 2- The workman submits that he was in employment of IInd party as Driver from 1996. His services are terminated in violation of Section 25-F, N of ID Act on 9-5-08. IInd party denies employer employee relationship. That after formation of BSNL in October 2000, the services

of workmen were utilized in same manner through contractor the caretaking and house keeping.

6. Workman filed affidavit of his evidence supporting his claim that he was working as motor driver with IInd party from 96 to 2008. He was orally terminated on 9-5-08. That he had completed 240 days continuous service. Initially he was paid Rs.1700 per month. Wages were increased to Rs.3500. That he had given option for regular appointment as Driver but he was not appointed on regular basis for the reasons he was outsider. Workman has produced documents Exhibit W-1, W-2. Exhibit W-3(1) to (54) , Exhibit W-4, W-5, W-6. I will deal with those documents at later part. Workman in his cross-examination says before he was engaged with IInd party, post was not advertised. Some driver had called him. the driver was not acquainted with him. His name was not sponsored through Employment Exchange. He has not submitted application for selection. He did not face oral interview. Appointment letter was not given to him. He was paid his salary by clerk in the office. During the year 2000-01, he was working under contractor.

7. Management's witness Ravishankar also stated in his affidavit that Ist party workman was employed through contractor. Zerox copy of documents about the contract are produced. The documents shows that M/s. Salauddin Siddique and Param Jeet Singh Basu submitted contract for house keeping and driving of departmental vehicle. However the evidence of workman shows that he was paid wages by clerk in office. No evidence is adduced that workman was paid his salary by contractor. The contentions of IInd party that workman was employed through contractor cannot be accepted as no evidence is adduced that establishment of IInd party is registered under CL(R&A)Act, 1970 required under Section-7. No evidence is also adduced that the contractors were holding licence required as per Section 12 of CL(R&A) Act, 1970. The documents w.r.t. contract appears only paper work. The workman was actually working as driver on establishment of IInd party. Workman has stated that he was working from 96 to 2008. He completed 240 days continuous service. He was terminated without notice, no retrenchment compensation was paid to him. The documents Exhibit W-1 experience certificate issued by Sub-Divisional Engineer shows that workman was working in IInd party from 93 to 2003-04 as Driver. Exhibit W-2 shows applications submitted by workman to Sub-Divisional Engineer for purchase of 3 tyres for vehicle No. MP-27B4455. However the documents Exhibit W-3/1 to 3/54, the purchase receipt of diesel are found in name of Ambika Transport. Those documents appears inconsistent with evidence of workman. Workman has produced insurance policy to Vehicle No. MP-25B4455 at Exhibit W-4. Said document bears signature of the workman. Exhibit W-5 is receipt of fine Rs.700 paid in name of workman for offence under Section 279, 337 of IPC.

From said receipt, it is not clear whether Vehicle MP 27 B 4455 was involved in the accident. The evidence of workman about he was working with IInd party as Driver from 96 to 08 is not shattered. The contentions of IInd party that workman was engaged through contractor cannot be said legal as the establishment of IInd party was not registered under Contract Labour (Regulation & Abolition) Act 1970. Neither contractor was holding licence therefore the evidence of workman that he was working as Driver in establishment of IInd party cannot be discarded. Workman in his cross-examination says that the fuel in the Vehicle was supplied through contractor. He had not gone for filling fuel in the vehicle. He had come to know about it from other persons cannot support claim of IInd party as contractor was not holding licence. The establishment was not registered. The evidence in cross-examination of management's witness shows that he was working in Telecom office, Ambikapur from January 2002. During said period, workman was also working in said office as Driver. That the management's witness had seen letter dated 22-11-04 relating to contractors. The copies of bills payments made, that attendance of workman was not maintained by department. It was maintained by contractor. Workman was not served with notice of termination. No retrenchment compensation was paid to him. the evidence clearly shows that as establishment of IInd party was not registered under CL(R&A) Act, the contractor was not holding licence. Workman working in establishment of IInd party was employee of IInd party. His services are terminated without notice though retrenchment compensation is paid. The termination of services of Ist party workman is in violation of Section 25-F of ID Act, for above reasons, I record my finding in Point No.1 in Affirmative, Point No.2 in Negative.

8. Point No.3- in view of my finding on Point No.2, termination of workman is illegal for violation of Section 25-F of ID Act, question arises whether workman is entitled for reinstatement with backwages. The evidence in cross-examination of workman shows that he was not appointed following selection process. Therefore reinstatement of workman would not be justified. Reasonable compensation would be appropriate. Considering workman was working from 96 to 2008, compensation Rs. 2 Lakh would be justified. Accordingly I record my finding in Point No.3.

9. In the result, award is passed as under:-

- (1) The contract between management of BSNL Ambikapur and their contractors w.e.r. employment of Shri Subhash Kumar Thakur is sham and bogus.
- (2) The action of the management in terminating his services w.e.f. 9-5-08 is not legal and proper.
- (3) IInd party is directed to pay compensation Rs. 2 Lakhs to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award.

In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 29 दिसम्बर, 2014

का.आ. 34.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार प्रबंधक भारत संचार निगम लिमिटेड, करौली के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 66/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-40012/48/2007-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 29th December, 2014

S.O. 34.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 66/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Manager, Bharat Sanchar Nigam Ltd., Karauli and their workman, which was received by the Central Government on 22/12/2014.

[No. L-40012/48/2007-IR(DU)]

P. K. VENUGOPAL, Desk Officer

अनुबन्ध

**केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर**

सी.जी.आई.टी. प्रकरण सं. 66/2007

भरत पाण्डेय

पीठासीन अधिकारी

रेफरेन्स नं. सं. एल.-40012/48/2007-IR (DU) दिनांक 26/10/2007

Shri Dileep Harijan
S/o. Shri Agura Ran Harijan,
Mohan Nagar, Hindaun City,
Distt.- Karauli (Rajasthan)

v/s

1. The Manager,
Bharat Sanchar Nigam Ltd.,
Hindaun City,
Karauli

प्रार्थी की तरफ से : श्री राजकुमार गोयल-एडवोकेट

अप्रार्थी की तरफ से : श्री टी.पी.शर्मा -एडवोकेट

: पंचाट :

दिनांक : 27.11. 2014

1. केन्द्रीय सरकार द्वारा औद्योगिक विवाद अधिनियम 1947 की धारा 10 उपधारा 1 खण्ड (घ) के अन्तर्गत दिनांक 26.10.2007 के आदेश से प्रेषित विवाद के आधार पर यह प्रकरण न्यायनिर्णयन हेतु संस्थित है। केन्द्रीय सरकार द्वारा प्रेषित विवाद निम्नवत् है :-
2. 'Whether the action of the management of BSNL, in terminating the services of their workman Shri Dileep Harijan w.e.f.01/03/2007, is legal and justified? If not, to what relief the workman is entitled to?'
3. याचिका में दिये गये तथ्यों के अनुसार संक्षिप्ततः याची का कथन है कि सन् 1995 में मई और जून के मध्य याची ने विपक्षी के यहां सफाई वाला (स्वीपर) के पद पर 150 रुपये प्रतिमाह की दर से भुगतान पर सेवा में प्रवेश किया। सेवा में प्रविष्टि के समय याची को कोई नियुक्ति पत्र नहीं दिया गया था। समय-समय पर सेवा के दौरान विपक्षी ने प्रार्थी की वेतन में वृद्धि की और सन् 2000 में याची की अन्तिम वेतन 900 रुपये मासिक थी।
4. आगे प्रार्थी का यह कथन है कि उसने पार्शद (कार्पोरेट) के पद हेतु चुनाव लड़ा और जीता और इस चुनाव में जीत के कारण प्रार्थी ने अपनी पत्नी को विपक्षी के यहां सफाई सेवा हेतु लगा दिया, जहां प्रार्थी की पत्नी ने नगर निगम के अगले चुनाव तक काम किया। आगे प्रार्थी का यह कथन है कि पार्शद के कार्यकाल के बाद याची पुनः सन् 2005 में विपक्षी की सेवा में शामिल हो गया और 28 फरवरी 2007 तक कार्य किया। दिनांक 1.3.2007 को विपक्षी ने याची की सेवाएं बिना कोई कारण बताएं और बिना नोटिस दिये समाप्त कर दी और याची की जगह दूसरे कर्मचारी की नियुक्ति ठेकेदार के जरिये कर दी। विपक्षी के उक्त कृत्य के सम्बन्ध में याची ने कहा है कि विपक्षीगण का उक्त कार्य पूर्णतः अनुचित, विधि विरुद्ध और सुस्थापित नैसर्गिक न्याय के सिद्धान्त के विरुद्ध है।
5. यह भी कहा गया है कि विपक्षी के कृत्य से औद्योगिक विवाद अधिनियम 1947 की धारा 25-जी, 25-एच और 25-एन और भारतीय संविधान के अनुच्छेद 21 का उल्लंघन हुआ है अतः सेवा समाप्ति का आदेश निरस्त होने योग्य है।
6. यह भी कहा गया है कि विपक्षी के द्वारा याची की सेवा समाप्ति कर दिये जाने के बाद याची ने सहायक श्रम आयुक्त एवं समझौता अधिकारी (केन्द्रीय) कोटा के समक्ष आवेदन प्रस्तुत की। सहायक श्रम आयुक्त एवं समझौता अधिकारी ने उभयपक्ष की सुनवाई किये जाने के बाद मामले को श्रम न्यायाधिकरण को निर्णयार्थ भेज दिया।
7. प्रस्तर 8 में याची ने यह उल्लेख किया है कि याची ने विपक्षी के यहां लम्बे समय तक सेवा की है और कार्य की प्रकृति नियमित एवं आवश्यक स्वरूप की है इसलिये प्रार्थी की सेवा समाप्ति असदभावनापूर्ण एवं अन्यायपूर्ण है। यह भी कहा गया है कि विपक्षी कार्पोरेशन के स्टैंडिंग आर्डर में विपक्षी द्वारा प्रार्थी को सेवा से हटाये जाने में अपनायी गयी प्रक्रिया की अनुमति नहीं है और न ही औद्योगिक विवाद अधिनियम 1947 में दी गयी प्रक्रिया को अपनाये बिना प्रार्थी को हटाया जा सकता है।
8. अतः प्रार्थी ने यह प्रार्थना की है कि विपक्षी को निर्देशित किया जाये कि सेवा समाप्ति की तिथि से विपक्षी याची को सेवा में समस्त पूर्ववर्ती वेतन और

भत्तों के साथ पुनर्स्थापित करें। यह भी प्रार्थना की गयी है कि प्रत्यर्थीगण को निर्देशित किया जाये कि याचिका प्रस्तुत करने की तिथि से याचिका निस्तारण की तिथि तक याची को निर्वाह भत्ता/न्यूनतम वेतन प्रदान करें।

9. याचिका के विरुद्ध वादोत्तर प्रस्तुत कर प्रत्यर्थीगण ने याचिका के प्रस्तर 1, 2, 3, 4, 5, 6, 7, 8, 9 के कथन को अस्वीकार किया है और अतिरिक्त कथन में यह उल्लेख किया है कि हिण्डौन दूरभाष में सफाई कर्मचारी का कोई पद नहीं है तथा ना ही प्रार्थी को कभी सफाई कर्मचारी के पद पर नियुक्त किया गया है। प्रार्थी द्वारा जो तथ्य बताये गये हैं वह गलत व मनगढ़ंत होने के कारण स्वीकार किये जाने योग्य नहीं हैं। प्रार्थी की कमी भी किसी पद पर किसी रूप में नियुक्ति नहीं की गयी इसलिये उसे हटाने या ना हटाने का कोई मतलब ही नहीं है। यह भी कहा गया कि दूरभाष केन्द्र की सफाई की व्यवस्था ठेका पद्धति के आधार पर की जाती है और इसी प्रकार की जा रही है। यह भी कहा गया कि विपक्षी विभाग द्वारा औद्योगिक विवाद अधिनियम की धारा 25-जी एवं 25 एच का उल्लंघन नहीं किया गया है तथा किसी भी नियम की अवहेलना नहीं की है तथा प्रार्थी द्वारा कमी भी 240 दिन का कार्य पूरा नहीं किया गया है। यह भी कहा गया है कि जब प्रार्थी की नियुक्ति नहीं की गयी तो सेवा समाप्ति का कोई अर्थ नहीं है और प्रार्थी ने भ्रम की स्थिति बनाकर तथा तथ्यों को छिपाकर न्यायालय को गुमराह करने की कोशिश की है अतः प्रार्थी की याचिका निरस्त की जाय।
10. जबाबुलजबाब में प्रार्थी द्वारा याचिका के कथन की पुनरावृत्ति की गयी है। जबाबुलजबाब में यह कहा गया है कि प्रार्थी एवं अन्य श्रमिकगणों का भुगतान विपक्षीगण द्वारा ही प्रतिदिन के हिसाब से किया जाता था तथा ठेकेदार द्वारा नहीं किया जाता था। इस सम्बन्ध में नगद भुगतान से सम्बन्धित वाउचर कि फोटोप्रति जबाबुलजबाब के साथ संलग्न है जिससे भुगतान की स्थिति स्पष्ट है। जबाबुलजबाब के साथ AW-1 लगायत AW-5 भुगतान से सम्बन्धित वाउचर की फोटोप्रतियां संलग्न की गयी हैं। यह भी कहा गया है कि वाउचर से स्पष्ट है कि विपक्षीगण द्वारा कर्मचारियों को स्वयं नियुक्त किया गया था तथा ठेकेदार द्वारा नहीं नियुक्त किया गया था। प्रार्थी ने लम्बे समय तक विपक्षी के यहां कर्मचारी की हैसियत से सेवा की है।
11. याचिका के समर्थन में प्रार्थी द्वारा अभिलेखीय साक्ष्य के रूप में AW-1 लगायत AW-5 भुगतान वाउचर की फोटोप्रतियां जबाबुलजबाब के साथ प्रस्तुत की गयी हैं। इसके अतिरिक्त याची दिलीप हरिजन का शपथ-पत्र साक्ष्य में प्रस्तुत किया गया है। विपक्ष द्वारा याची की शपथ-पत्र के विरुद्ध प्रतिपरीक्षा दिनांक 9.10.2012 को की गयी है।
12. विपक्ष की तरफ से कोई प्रलेखीय साक्ष्य प्रस्तुत नहीं किया गया है। विपक्षी साक्षी श्री विनोद कुमार बंसल पुत्र श्री औमप्रकाश बंसल, उपमण्डल अभियन्ता की शपथ-पत्र साक्ष्य में प्रस्तुत की गयी है और याची पक्ष द्वारा साक्षी की प्रतिपरीक्षा दिनांक 19.2.2013 को की गयी है।
13. मैंने उभयपक्ष के विद्वान अधिवक्तागण की बहस सुनी तथा पत्रावली का सम्यक् अवलोकन किया। उभयपक्ष द्वारा लिखित बहस भी प्रस्तुत की गयी है जो पत्रावली में संलग्न है।
14. याची के विद्वान प्रतिनिधि की तरफ से यह बहस की गयी है कि सन् 1995 से याची विपक्षी के विभाग में कार्यरत था और उसके वेतन में समय-समय पर बढ़ोतरी भी मिलती रही जिसके आधार पर सन् 2000 में प्रार्थी का वेतन 900 रुपये प्रतिमाह हो गया। उसके बाद याची ने पुनः 2005 से 28.2.2007 तक कार्य

किया। सन् 2000 से 2005 की अवधि में याची की पत्नी द्वारा कार्य किया गया जिसका खण्डन विपक्षी द्वारा नहीं किया गया। यह बहस भी की गयी है कि प्रार्थी के ठेके पर नियुक्त होने के सम्बन्ध में विपक्ष द्वारा कोई प्रलेखीय साक्ष्य न्यायाधिकरण के समक्ष प्रस्तुत नहीं किया गया है और विपक्ष ने प्रतिपरीक्षा के दौरान यह स्वीकार किया है कि कर्मचारियों को भुगतान, भुगतान वाउचर से विभाग द्वारा किया जाता था न कि ठेकेदार द्वारा किया जाता था, जिससे यह प्रगट होता है कि प्रार्थी तथा अन्य कर्मचारी विपक्षी के द्वारा की गयी नियुक्ति के आधार पर विपक्षी की सेवा में थे। यह बहस भी की गयी है कि विपक्ष द्वारा अपनी लिखित बहस में यह उल्लेख किया गया है कि प्रार्थी को कभी नियुक्ति नहीं दी गयी और यह बहस भी की गयी है कि प्रार्थी स्वयं काम छोड़कर चला गया जो परस्पर विरोधभासी है। विपक्ष ने यह भी लिखित बहस में उल्लेख किया है कि किसी कैलेण्डर वर्ष में प्रार्थी ने 240 दिन काम नहीं किया इससे यह जाहिर होता है कि प्रार्थी विपक्षी के यहां कार्यरत था लेकिन विपक्षी द्वारा न्यायाधिकरण के समक्ष प्रार्थी की उपस्थिति पंजिका नहीं प्रस्तुत की गयी है। लिखित बहस में प्रार्थी पक्ष ने यह उल्लेख किया है कि विपक्ष द्वारा धारा 25 जी, 25 एच एवं 25 एन का उल्लंघन किया गया है अतः वर्ष 1995 से प्रार्थी को नियमित सेवारत मानते हुए समय-समय पर मिलने वाले समस्त परिलाभों के साथ सेवा में वापस विपक्ष द्वारा लिये जाने के सम्बन्ध में अनुतोष प्रदान किया जाय।

15. विपक्ष की तरफ से लिखित बहस में यह उल्लेख किया गया है कि प्रार्थी को कभी नियुक्ति पत्र नहीं दिया गया तथा उसे केवल किसी विशेष कार्य के लिये कार्य पर रखा गया था और विभाग में कार्य न होने के कारण प्रार्थी स्वयं चला गया। यह भी कहा गया है कि हिण्डौन दूरभाष केन्द्र में सफाई कर्मचारी का कोई पद नहीं है और न ही प्रार्थी की इस पद पर नियुक्ति की गयी तथा प्रार्थी ने कभी भी वर्ष में 240 दिन लगातार कार्य नहीं किया। यह भी कहा गया कि दूरभाष केन्द्र की सफाई व्यवस्था ठेका पद्धति के आधार पर की जाती है और की जा रही है, प्रार्थी श्रमिक द्वारा ऐसा कोई रिकार्ड पत्रावली पर नहीं प्रस्तुत किया गया है जिससे यह स्पष्ट हो कि उसने लगातार कार्य किया। प्रार्थी ने अपनी प्रतिपरीक्षा में स्वयं कहा है कि कभी वह सफाई करने जाता था कभी उसके स्थान पर उसकी पत्नी जाया करती थी जिससे यह जाहिर है कि प्रार्थी द्वारा लगातार कार्य करने का कथन गलत और मनगढ़ंत है। यह भी कहा गया है कि प्रार्थी को कभी नियुक्ति नहीं दी गई अतः उसको हटाने का प्रश्न नहीं उठता, श्रमिक स्वयं कार्य छोड़कर चला गया था। विपक्षी विभाग में आकस्मिक कार्य ठेकेदार के माध्यम से करवाया जाता है। विभाग द्वारा औद्योगिक विवाद अधिनियम की धारा 25 जी एवं 25 एच का उल्लंघन नहीं किया गया है। चूंकि विभाग का कार्य ठेके पर करवाया जाता है इसलिये ठेकेदार कार्य को किन व्यक्तियों से कैसे कार्य करवाता है इस सम्बन्ध में विभाग की कोई जिम्मेदारी नहीं बनती है। चूंकि ठेके की संविदा की समाप्ति पर रखे गये श्रमिक स्वतः ही हटा दिये गये थे अतः श्रमिक के पद पर नियुक्ति किसी भी कनिष्क व्यक्ति को नहीं दी गई। यह भी कहा गया है कि विभाग में कार्य ठेके पर करवाया जाता है अतः ठेकेदार किन व्यक्तियों से कैसे कार्य करवाता है उन व्यक्तियों के सम्बन्ध में विभाग की कोई जिम्मेदारी नहीं बनती।

16. लिखित बहस के प्रस्तर 7 में यह कहा गया है कि विभाग भारत सरकार के दिशा निर्देशों का पालन करते हुए कार्य को अन्जाम देता है। विभाग में नियुक्ति के लिए कोई अधिकारी तब तक अधिकृत नहीं है जब तक की रोजगार कार्यालय द्वारा श्रमिक का नाम नियुक्ति के लिये अनुमोदित न हो। प्रार्थी को कभी भी संवैधानिक नियुक्ति नहीं दी गई और केवल ठेके प्रणाली के आधार पर

प्रार्थी ने कार्य किया हो तो वह विधिसम्मत नियुक्ति नहीं है। लिखित बहस के प्रस्तर 8 में यह कहा गया है कि विभाग द्वारा श्रमिक को कभी नियोजित नहीं किया गया, प्रार्थी को केवल मात्र आकस्मिक श्रमिक के रूप में रखा गया था और कोई नियुक्ति पत्र जारी नहीं किया गया था तथा ऐसी स्थिति में प्रार्थी को कोई सेवामुक्ति पत्र देना आवश्यक नहीं है एवं प्रार्थी ने कभी भी 240 दिन से ज्यादा कार्य नहीं किया, अतः प्रार्थी कोई अनुतोष पाने का हकदार नहीं है तथा स्टेटमेन्ट ऑफ क्लेम खारिज होने योग्य है।

17. उभयपक्ष के अभिवचनों और प्रस्तुत उपरोक्त बहस के आधार पर निस्तारण के लिये निम्न वाद बिन्दु उत्पन्न होते हैं :-

वाद-बिन्दु

1. क्या प्रार्थी दिलीप हरिजन विपक्षी के अधीन नियुक्त सफाई कर्मचारी है तथा उसे विपक्षी द्वारा दिनांक 1.3.2007 को सेवामुक्ति किया गया ?
2. क्या प्रार्थी दिलीप हरिजन ने सेवा समाप्ति की तिथि 1.3.2007 के ठीक पूर्व कलेण्डर वर्ष में लगातार 240 दिन तक विपक्षी के अधीन कार्य किया है ?
3. क्या विपक्षी द्वारा धारा 25 जी औद्योगिक विवाद अधिनियम का उल्लंघन किया गया है ?
4. क्या विपक्षी द्वारा धारा 25 एच औद्योगिक विवाद अधिनियम का उल्लंघन किया गया है ?
5. अनुतोष जिसे याची पाने का हकदार है?

निस्तारण वाद-बिन्दु संख्या एक :-

18. यह वाद इस आशय का है कि क्या प्रार्थी दिलीप हरिजन विपक्षी के अधीन नियुक्त सफाई कर्मचारी है तथा उसे विपक्षी द्वारा दिनांक 1.3.2007 को सेवामुक्त किया गया।

19. उक्त वाद बिन्दु के सम्बन्ध में यह उल्लेखनिय है कि प्रार्थी द्वारा स्टेटमेन्ट ऑफ क्लेम में मई और जून 1995 के मध्य में सफाई कर्मचारी के रूप में विपक्षी के यहाँ 150 रुपये मासिक वेतन पर सेवा में शामिल होने का उल्लेख किया गया है। विपक्षी द्वारा वादोत्तर में प्रार्थी को सेवा में नियुक्त करने के तथ्य से स्पष्ट रूप से इन्कार किया गया है। यह भी कहा गया प्रार्थी को कोई नियुक्ति ही नहीं दी गई तो उसे विपक्षी द्वारा सेवा मुक्त करने का प्रश्न नहीं उठता है। उक्त तथ्य एवं परिस्थिति में यह तथ्य सिद्ध करने का भार प्रार्थी पर है कि उसे विपक्षी ने मई-जून 1995 के मध्य अपने यहां सेवा में नियुक्त किया। पत्रावली पर याची पक्ष द्वारा प्रस्तुत इस सम्बन्ध में कोई नियुक्ति पत्र अथवा उसकी प्रतिलिपि प्रस्तुत नहीं की गयी है। याची ने स्वयं याचिका के प्रस्तर 1 में स्वीकार किया है कि उसे कोई नियुक्ति पत्र नहीं दिया गया था। इस सम्बन्ध में जहाँ तक मौखिक साक्ष्य का प्रश्न है प्रार्थी ने अपने दावा पत्र के समर्थन में शपथ-पत्र प्रस्तुत किया है और प्रतिपरीक्षा में यह स्वीकार किया है कि उसे कोई नियुक्ति पत्र नहीं दिया गया था। यह भी स्वीकार किया है कि जब उसको नौकरी पर लगाया गया उस समय विपक्षी द्वारा कोई नौकरी हेतु विज्ञप्ति जारी नहीं की गयी थी। आगे प्रतिपरीक्षा में साक्षी ने यह उल्लेख किया है कि उसे सफाई कार्य के लिए रखा गया था और वर्ष 1995 से उससे लगातार काम किया। उसको विपक्षी विभाग ने कार्य पर लगाया और कार्य करवाया। वर्ष 2007 के बाद विपक्षी ने ठेकेदार के माध्यम से कार्य करवाना शुरू कर दिया। यह भी कहा है कि उसने 28 फरवरी 2007 तक कार्य

किया और उसके बाद ठेकेदार के माध्यम से कार्य हो रहा है। उसने जितनी अवधि तक कार्य किया उसका भुगतान उसे मिल गया है। प्रार्थी ने यह भी स्वीकार किया है कि उसे अस्थायी रूप से रखा गया था यह बात सही है लेकिन यह सही नहीं है जब काम होता था तब ही उसे बुलाया जाता था। आगे साक्ष्य में प्रार्थी ने यह कहा है कि सन् 2000 के बाद प्रार्थी तथा उसकी पत्नी दोनों ही कार्य करते थे कभी साक्षी कार्य कर लेता था कभी उसकी पत्नी कार्य कर लेती थी। कभी वह चला जाता था तो कभी उसकी पत्नी चली जाती थी। साक्षी ने आगे कहा है कि यह कहना सही नहीं है कि विभाग में दोनों को नियुक्ति नहीं दी तथा जब-जब काम होता था तब काम हेतु बुला लेते थे। यहां पर यह उल्लेखनीय है कि प्रार्थी के स्टेटमेंट ऑफ क्लेम के प्रस्तर तीन और चार में कथन के अनुसार सन् 2000 में पार्षद चुने जाने के बाद वह सन् 2005 तक काम पर नहीं गया और उसकी जगह उसकी पत्नी जाती थी, अतः प्रार्थी की साक्ष्य की प्रतिपरीक्षा का यह कथन गलत और झूठ है कि सन् 2000 के बाद प्रार्थी और उसकी पत्नी दोनों ही कार्य करते थे।

20. प्रार्थी की साक्ष्य की प्रतिपरीक्षा के उक्त अंश से यह स्वतः साबित है कि प्रार्थी की विपक्षी के यहां नियुक्ति एवं लगातार कार्य करने के कथन की पुष्टि नहीं होती है। इस सम्बन्ध में पत्रावली पर कोई प्रलेख नहीं प्रस्तुत है जिससे प्रार्थी के कथन को समर्थन मिले।

21. प्रार्थी ने याचिका में यह उल्लेख किया है कि जब वह पार्षद का चुनाव जीता था तो उस अवधि में उसकी जगह उसकी पत्नी कार्य करने के लिए जाती थी और पार्षद का कार्यकाल समाप्त होने के बाद सन् 2005 में उसने पुनः विपक्षी के यहां सेवा में सम्मिलित होकर 28 फरवरी 2007 तक काम किया। इस अवधि में भी प्रार्थी द्वारा विपक्षी के यहां काम करने के सम्बन्ध में वेतन भुगतान से सम्बन्धित अथवा हाजिरी से सम्बन्धित कोई अभिलेख प्रस्तुत नहीं किया गया है जिससे प्रार्थी के कथन का समर्थन हो।

22. प्रार्थी पक्ष की तरफ से जबाबुलजबाब के साथ पाँच भुगतान सम्बन्धित वाउचर प्रस्तुत किये गये हैं जो निम्नवत हैं :-

क्र. सं.	नाम	कार्य अवधि	भुगतान राशि	दैनिक मजदूरी दर X दिनों की संख्या
1	सुरेशी पत्नी रामखिलाडी	01.01.2005 से 07.01.2005	210	30 X 7
2	सम्पतबाई पत्नी दिलीप वाल्मिकी	08.01.2005 से 14.01.2005	210	30 X 7
3	सम्पतबाई पत्नी दिलीप वाल्मिकी	23.01.2005 से 31.01.2005	270	30 X 9
4	लच्छो पत्नी श्री रामकेश	01.04.2005 से 07.04.2005	210	30 X 7
5	विमला पत्नी श्री जगदीश	08.04.2005 से 15.04.2005	210	30 X 7

उपरोक्त भुगतान वाउचर को दर्शाते हुए मौखिक बहस के दौरान प्रार्थी पक्ष के विद्वान अधिवक्ता की तरफ से यह उल्लेख किया गया है कि उक्त भुगतान वाउचर यह दर्शाते हैं कि भुगतान ठेकेदार द्वारा नहीं बल्कि विभाग द्वारा किया जाता था जिससे इस तथ्य की पुष्टि होती है कि विपक्ष का यह कहना गलत है कि कार्य ठेके पर होता था और भुगतान भी ठेकेदार ही करता था लेकिन प्रार्थी पक्ष की बहस से इस तथ्य को बल नहीं मिलता है कि प्रार्थी विपक्षी के यहाँ दैनिक या मासिक वेतन पर नियुक्त था क्योंकि वाउचर प्रार्थी से सम्बन्धित नहीं हैं और दैनिक दर पर मजदूरी का भुगतान प्रदर्शित करते हैं। इससे प्रार्थी के मासिक वेतन भोगी होने के तथ्य का भी खण्डन होता है। सभी वाउचर जनवरी और अप्रैल 2005

के हैं और इन अभिलेखों के सम्बन्ध में विनोद कुमार बन्सल, उप मण्डल अभियन्ता, दूरभाष ने प्रतिपरीक्षा में स्वीकार किया है कि ये सभी पाँचों अभिलेख विपक्षी विभाग के हैं और सफाई के भुगतान से सम्बन्धित हैं और जिन लोगों ने ठेका पद्धति लागू होने से पहले सफाई का कार्य किया उनके भुगतान से सम्बन्धित वाउचर विभाग में होंगे। बंसल ने कहीं साक्ष्य में यह उल्लेख नहीं किया है कि ठेका पद्धति 2005 में लागू थी या नहीं थी। दिलीप द्वारा प्रतिपरीक्षा में यह स्वीकार किया गया है कि वर्ष 2007 के बाद विपक्ष ने ठेकेदार के माध्यम से सफाई का काम करवाना चालू कर दिया और 28 फरवरी 2007 के बाद ठेकेदार के माध्यम से ही कार्य हो रहा है अतः उक्त पाँच भुगतान वाउचर से प्रार्थी के पक्ष में कोई मदद नहीं ली जा सकती है क्योंकि कोई भी वाउचर प्रार्थी दिलीप हरिजन को भुगतान से सम्बन्धित नहीं है। क्रमांक 3 पर श्री दिलीप हरिजन की पत्नी द्वारा 23.1.2005 से 31.1.2005 तक केवल 9 दिन कार्य करना दर्शाया गया है और 30 रु. दैनिक मजदूरी की दर से 270 रु. का भुगतान किया गया है। दिलीप हरिजन के कथनानुसार अगर उनकी बात सही मानी जाय की उनके स्थान पर उनके पार्षद रहने के दौरान उनकी पत्नी कार्य करने जाती थी तो किये गये भुगतान के आधार पर दिलीप हरिजन का याचिका में यह कथन गलत साबित होता है कि उनको मासिक वेतन भुगतान पर रखा गया था और सन् 2000 में उनका मासिक वेतन 900 रु. था क्योंकि उनकी पत्नी को दर्शाया गया भुगतान दैनिक दर पर दर्शाया गया है और जनवरी 2005 में केवल 16 दिन कार्य करना दर्शाया है।

23. यहां पर इस तथ्य का उल्लेख भी महत्वपूर्ण है कि प्रार्थी पक्ष द्वारा अपनी पत्नी तथा अन्य व्यक्तियों के सम्बन्ध में भुगतान वाउचर प्रस्तुत किया गया है लेकिन अपने सम्बन्ध में कोई वाउचर नहीं प्रस्तुत किया गया है जिससे उनकी विपक्षी के यहां सेवा किये जाने के तथ्य का समर्थन हो सके। उल्लेखनीय है कि उक्त भुगतान वाउचरों से प्रार्थी पक्ष द्वारा बहस के दौरान इस बिन्दु पर बल दिया गया कि भुगतान वाउचर जिन दिनों जारी किये गये हैं उस समय भुगतान ठेकेदार के माध्यम से नहीं किया जाता था बल्कि विभाग द्वारा किया जाता था और विभाग द्वारा भुगतान किये जाने के कारण यह माना जाय कि कर्मचारीगण ठेकेदार के माध्यम से नहीं बल्कि सीधे विभाग द्वारा सेवा में नियुक्त किये गये थे। प्रार्थी पक्ष की उक्त बहस को अगर इसी रूप में ग्रहण कर लिया जाय जिस रूप में बहस प्रस्तुत कि गयी है फिर भी याची पक्ष द्वारा अपने व्यक्तिगत भुगतान के सम्बन्ध में सन् 1995 से लेकर सन् 2005 अथवा उसके बाद की अवधि का कोई भुगतान वाउचर प्रस्तुत नहीं किया गया है जिससे उसके विपक्षी के सेवा में होने की पुष्टि हो सके।

24. उक्त समस्त व्याख्या व विश्लेषण के आधार पर मैं इस निष्कर्ष पर हूँ कि प्रार्थी पक्ष यह तथ्य सिद्ध करने में असफल है कि वह विपक्षी के यहां मासिक वेतन पर वर्ष 1995 के मई और जून के मध्य सफाई कर्मचारी के पद पर नियुक्त हुआ था और इस तथ्य को सिद्ध करने में भी असफल है कि विपक्ष द्वारा उसकी सेवा 1.03.2007 को समाप्त की गयी और यह तथ्य भी सिद्ध करने में असफल है कि पार्षद के कार्यकाल के बाद सन् 2005 (तिथि अज्ञात) से दिनांक 28.2.2007 तक विपक्षी के यहां सफाईवाला (स्वीपर) के पद पर कार्य किया। यह वाद बिन्दु तदनुसार याची के विरुद्ध नकारात्मक निर्णित किया जाता है।

25. निस्तारण वाद-बिन्दु संख्या 2 :- यह वाद-बिन्दु इस आशय का है कि क्या प्रार्थी ने सेवा समाप्ति की तिथि 1.3.2007 के पूर्व कैलेण्डर वर्ष में 240 दिन तक लगातार कार्य किया है? इस सन्दर्भ में उल्लेखनीय है कि प्रार्थी इस तथ्य को सिद्ध करने में असफल है कि विपक्ष द्वारा उसे सेवा में रखा गया तथा उसे कोई

नियुक्ति प्रदान की गयी। जहां तक दिनांक 1.7.2003 के ठीक पूर्व एक वर्ष में 240 दिन तक लगातार कार्य करने का प्रश्न है याचिका में याची ने उल्लेख किया है कि वर्ष 2005 से 28.2.2007 तक उसने विपक्षी के यहां कार्य किया। साक्ष्य में प्रस्तुत शपथ-पत्र में भी साक्षी ने यह उल्लेख किया है कि पार्षद का कार्यकाल पूरा होने के बाद 2005 में उसने अपनी पत्नी के स्थान पर पुनः विपक्षी के यहां कार्य पर शामिल हो गया और दिनांक 28.2.2007 तक कार्यरत रहा लेकिन 2005 में कार्य पर शामिल होने के सम्बन्ध में कोई साक्ष्य पत्रावली पर नहीं है केवल शपथ-पत्र में कथन मात्र है और न इस बात का उल्लेख है कि 2005 में सेवा में किस तारीख को कार्य पर शामिल हुआ। प्रतिपरीक्षा में स्वयं प्रार्थी ने स्वीकार किया है कि कभी काम स्वयं याची कर लेता था और कभी उसकी पत्नी कर लेती थी। कभी स्वयं प्रार्थी चला जाता था तो कभी उसकी पत्नी चली जाती थी। यह भी कहा है कि यह सही नहीं है कि विभाग में दोनों की नियुक्ति नहीं थी। साक्ष्य की उक्त स्थिति से स्वतः स्पष्ट है कि प्रार्थी इस तथ्य को सिद्ध करने में असफल है कि उसने दिनांक 1.3.2007 के पूर्व कैलेंडर वर्ष में 240 दिन तक लगातार कार्य किया। पत्रावली पर याची द्वारा अपनी कार्य पर उपस्थिति अथवा वेतन भुगतान के सम्बन्ध में कोई विवरण नहीं प्रस्तुत है जिससे यह प्रकट हो कि उसने किस दिन वर्ष 2005 में पार्षद का कार्यकाल समाप्त होने पर विपक्षी के यहाँ कार्य पर सम्मिलित हुआ। इस बात का भी कोई साक्ष्य नहीं है कि विपक्षी और प्रार्थी के बीच कोई अनुबन्ध था कि विपक्षी प्रार्थी की जगह उसके पार्षद के कार्यकाल के दौरान उसकी पत्नी की सेवा प्राप्त करेगा। उक्त व्याख्या एवं विश्लेषण के आधार पर मैं इस निष्कर्ष पर हूँ कि प्रार्थी कथित सेवामुक्ति की तिथि दिनांक 01.03.2007 के पूर्व एक कैलेंडर वर्ष में लगातार 240 दिन सेवा करने के तथ्य को सिद्ध करने में असफल है। यह वाद बिन्दु तदनुसार प्रार्थी के विरुद्ध नकारात्मक रूप में निर्णित किया जाता है।

26. निस्तारण वाद बिन्दु संख्या 3 :- यह वाद बिन्दु इस आशय का है कि क्या विपक्षी द्वारा धारा 25-जी औद्योगिक विवाद अधिनियम का उल्लंघन किया गया है? धारा 25-जी में निम्न व्यवस्था है :-

“धारा 25-छ में छंटनी के लिए प्रक्रिया- जहां कि किसी औद्योगिक स्थापन के किसी ऐसे कर्मकार की, जो भारत का नागरिक है छंटनी की जानी हो और यह उस स्थापन के कर्मकारों के किसी विशिष्ट प्रवर्ग का हो, वहां, तब के सिवाय जबकि नियोजक ऐसे कारणों से, जिन्हें अभिलिखित किया जाएगा, किसी अन्य कर्मकार की छंटनी करता है, नियोजक और कर्मकार के बीच इस निमित्त हुए किसी करार के अभाव में नियोजक, मामूली तौर से और उस कर्मकार की छंटनी करेगा, जो उस प्रवर्ग में नियोजित किया जाने वाला अन्तिम व्यक्ति हो।”

27. इस सम्बन्ध में याचिका में प्रस्तर 5 में याची पक्ष की तरफ से यह उल्लेख किया गया है कि विपक्ष द्वारा याची को सेवा से धारा 25 जी, धारा 25-एच, धारा 25-एन एवं अनुच्छेद 21 भारतीय संविधान के प्राविधान के उल्लंघन में हटाया गया है। उक्त धारा 25-जी के प्रावधान के अनुसार यदि नियोक्ता द्वारा छंटनी की जानी है तो नियोक्ता और कर्मकार के बीच किसी करार के अभाव में उस कर्मकार की छंटनी पहले की जावेगी जो सबसे बाद में नियुक्त हुआ है। प्रार्थी द्वारा अपनी याचिका में अथवा शपथ-पत्र के माध्यम से प्रस्तुत साक्ष्य में स्वयं इस बात का उल्लेख नहीं किया है कि विपक्षी के यहां नियुक्त याची के सदृश कर्मकारों में स्वयं याची की क्या स्थिति थी और संस्थान में अन्तिम कर्मकार कौन था? इसके विरुद्ध याची ने स्वयं अपनी प्रतिपरीक्षा में यह उल्लेख किया है कि 28 फरवरी 2007 तक उसने काम किया और उसके बाद से ठेकेदार के माध्यम से

कार्य हो रहा है। याची ने यह कहीं नहीं कहा है कि उससे कनिष्क व्यक्ति को सेवा में रखते हुए उसे हटा दिया गया है और वह व्यक्ति कौन है? अतः उक्त स्थिति से यह निष्कर्ष निकलता है कि याची के मामले में विपक्ष द्वारा धारा 25-जी औद्योगिक विवाद अधिनियम के प्रावधान का उल्लंघन साबित नहीं है।

28. जहाँ तक धारा 25-एन औद्योगिक विवाद अधिनियम के उल्लंघन का प्रश्न है याची यह तथ्य सिद्ध करने में असफल है कि उसके कथनानुसार सन् 2005 में सेवा में पुनः आने के बाद लगातार एक साल तक विपक्षी के यहां वह कार्य किया है। प्रार्थी द्वारा लगातार सेवा न करने के परिणामस्वरूप धारा 25-एन के प्रावधान प्रार्थी के मामले में आकर्षित नहीं होते हैं। सन 1995 में प्रार्थी ने पहली बार विपक्षी की सेवा में 150 रु. प्रतिमाह की दर से प्रविष्टि का उल्लेख किया है लेकिन 1995 से 2005 के बीच की अवधि में भी प्रार्थी ने विपक्षी के यहां लगातार एक साल सेवा करने का तथ्य साबित नहीं किया है और पत्रावली पर इस सम्बन्ध में प्रार्थी के कथन और शपथ-पत्र के अतिरिक्त कोई ठोस साक्ष्य नहीं है। उक्त समस्त व्याख्या व विश्लेषण के आधार पर मैं इस निष्कर्ष पर हूँ कि याची पक्ष द्वारा धारा 25-जी अथवा 25-एन औद्योगिक विवाद अधिनियम के प्राविधान का उल्लंघन साबित नहीं किया गया है, यह वाद बिन्दु तदनुसार प्रार्थी के विरुद्ध नकारात्मक निर्णित किया जाता है।

29. निस्तारण वाद-बिन्दु संख्या 4 :-यह वाद-बिन्दु इस आशय का है कि क्या विपक्षी द्वारा धारा 25-एच औद्योगिक विवाद अधिनियम का उल्लंघन प्रार्थी की सेवा के मामले में किया गया है? धारा 25-एच औद्योगिक विवाद अधिनियम का प्रावधान निम्नवत है:-

“धारा 25-ज. छंटनी किए गए कर्मकारों का पुनः नियोजन- जहां कि किन्हीं कर्मकारों की छंटनी की जाती है और नियोजक किन्हीं व्यक्तियों को अपने नियोजन में रखने की प्रस्थापना करता है, वहां वह उन छंटनी किए गए कर्मकारों को, जो भारत के नागरिक हैं, ऐसी रीति से, जैसी विहित की जाए, यह अवसर देगा कि पुनः नियोजन के लिए अपने को प्रस्थापित करें और छंटनी किए गए उन कर्मकारों को जो पुनः नियोजन के लिए अपने को प्रस्थापित करें अन्य व्यक्तियों पर अधिमान मिलेगा।”

30. उक्त प्रावधान में यह व्यवस्था है कि यदि किसी कर्मकार की छंटनी की जाती है और उसके बाद नियोजक किन्हीं व्यक्तियों को अपने नियोजन में रखना चाहता है तो ऐसी स्थिति में छंटनी किये गये कर्मकार को पुनः नियोजन का अवसर पहले दिया जायेगा और यदि छंटनी किया कर्मकार पुनः नियोजन का इच्छुक है तो उसे अन्य व्यक्तियों की तुलना में वरीयता दी जावेगी। प्रार्थी द्वारा स्वयं अपनी प्रतिपरीक्षा में यह स्वीकार किया गया है कि उसे हटाने के बाद उसकी जगह अन्य व्यक्ति को विपक्ष द्वारा नहीं लगाया गया है और विपक्ष ठेकेदार के माध्यम से कार्य कर रहा है। याचिका में अथवा साक्ष्य में कही इस बात का उल्लेख नहीं है कि विपक्ष ने प्रार्थी को हटाकर अन्य व्यक्ति को रख लिया है। विपक्षी साक्षी विनोद कुमार बंसल की प्रतिपरीक्षा में भी ऐसा कोई सुझाव नहीं दिया गया है कि प्रार्थी के सेवा से हटाने के बाद विपक्ष ने किसी व्यक्ति को नियुक्ति दी। अतः विपक्ष द्वारा धारा 25-एच औद्योगिक विवाद अधिनियम के प्रावधान का उल्लंघन याची पक्ष साबित नहीं कर सका है। यह वाद बिन्दु तदनुसार प्रार्थी के विरुद्ध नकारात्मक निर्णित किया जाता है।

31. प्रार्थी के विद्वान प्रतिनिधि की तरफ से यह बहस की गयी है कि विपक्ष द्वारा प्रार्थी की सेवा के सम्बन्ध में तथा वेतन भुगतान के सम्बन्ध में कोई विवरण नहीं प्रस्तुत किया गया है और इस सम्बन्ध में भी कोई विवरण प्रस्तुत नहीं किया

गया है कि प्रार्थी विपक्षी के यहां ठेके पर नियुक्त था अतः विपक्ष के विरुद्ध अभिलेखों को प्रस्तुत नहीं करने के सम्बन्ध में प्रतिकूल अवधारणा ग्रहण की जानी चाहिए एवं प्रार्थी का दावा आज्ञाप्त किया जाना चाहिए। इसके विरुद्ध विपक्ष के विद्वान अधिवक्ता की तरफ से यह बहस की गयी है कि प्रारम्भिक तौर पर अपने कथन को सिद्ध करने का भार प्रार्थी पक्ष पर है जिसे अपने स्वतन्त्र साक्ष्य से अपना मामला सिद्ध करना चाहिए और विपक्ष की कमियों के आधार पर प्रार्थी पक्ष कोई लाभ प्राप्त नहीं कर सकता। यह बहस भी की गयी है कि प्रार्थी विपक्षी के यहां नियुक्त नहीं रहा है और उसने सारे मनगढ़ंत कथन प्रस्तुत किये हैं। प्रार्थी का यह कथन भी मनगढ़ंत है कि पार्श्व रहने के दौरान उसकी पत्नी उसकी जगह कार्य करती थी क्योंकि विपक्षी भारत सरकार का संगठन है जहां किसी अधिकारी द्वारा उक्त प्रकार की अनुमति प्रदान नहीं की जा सकती। याची पक्ष की उक्त बहस के सम्बन्ध में यह उल्लेखनीय है कि स्वयं प्रार्थी की नियुक्ति के समय और स्वरूप के सम्बन्ध में प्रस्तुत कथन में एकरूपता नहीं है। याची ने याचिका में अपनी नियुक्ति का स्वरूप मासिक वेतन भोगी बताया है जबकि जबबुलजवाव में स्वयं को दैनिक वेतन भोगी होना प्रस्तर 1 में स्वीकार किया है। जहां तक विपक्ष द्वारा अभिलेख प्रस्तुत न करने के कारण प्रतिकूल अवधारणा ग्रहण किये जाने का प्रश्न है अथवा औद्योगिक विवाद अधिनियम के विभिन्न प्रावधानों के उल्लंघन का प्रश्न है, इस सम्बन्ध में 2006, सुप्रीम कोर्ट (एल.एण्ड एस.), 38 में माननीय सर्वोच्च न्यायालय द्वारा दी गयी विधि व्यवस्था उल्लेखनीय है।

32. 2006 सुप्रीम कोर्ट (एल.एण्ड एस.), 38, सुरेन्द्र नगर जिला पंचायत – अपीलार्थी बनाम दहयाभाई अमर सिंह – प्रत्यर्थी में प्रकरण के तथ्यानुसार प्रत्यर्थी की सेवा 15.8.85 के आदेश से समाप्त कर दी गयी थी। सेवा समाप्ति के लगभग सात साल बाद दिनांक 01.6.92 को प्रत्यर्थी ने अपीलार्थी को सेवा में पुनर्स्थापना की नोटिस भेजी और अन्ततः प्रत्यर्थी की सेवा समाप्ति का विवाद न्यायनिर्णयन हेतु औद्योगिक न्यायाधिकरण को सुपुर्द किया गया।

33. प्रत्यर्थी ने अपने स्टेटमेंट ऑफ क्लेम में यह उल्लेख किया कि वह सेवा समाप्ति के आदेश दिनांक 15.8.85 तक 10/- रुपये दैनिक मजदूरी पर अपीलार्थी की सेवा में था एवं सेवा समाप्ति के आदेश निर्गत होने के पूर्व औद्योगिक विवाद अधिनियम के प्रावधानों का पालन नहीं किया गया। श्रम न्यायालय के समक्ष प्रत्यर्थी की तरफ से एक आवेदन अपीलार्थी को निर्देश जारी करने के लिए प्रस्तुत हुई कि अपीलार्थी 1976 से 1986 तक की सेवा अवधि का वेतन रजिस्टर एवं मस्टर रोल प्रस्तुत करें। अपीलार्थी ने स्टेटमेंट ऑफ क्लेम के विरुद्ध यह कथन प्रस्तुत किया कि प्रत्यर्थी स्वयं काम पर आना बन्द कर दिया एवं उसे कोई स्थायी नियुक्ति नहीं दी गयी थी। वह मुतफर्का कार्यों के लिए नियुक्त था तथा जब काम होता था तो उसे बुला लिया जाता था। यह भी कहा गया कि कर्मचारी ने सेवासमाप्ति के ठीक पूर्व पूर्ववर्ती 12 माहों में 240 दिन तक लगातार कार्य नहीं किया है। यह भी कहा गया कि उसने सन् 82, 83 और 84 में क्रमशः 114, 63 और 124 दिन कार्य किया है अतः उसकी सेवाएं समाप्त करने के पूर्व धारा 25 (एफ) औद्योगिक विवाद अधिनियम में दी गयी प्रक्रिया का अनुपालन करने की विधिक आवश्यकता नहीं थी।

34. प्रत्यर्थी ने स्वयं को साक्ष्य में प्रस्तुत कर सशपथ कहा कि वह दस साल तक 470/- रुपये प्रतिमाह के वेतन पर नियुक्त था। अपीलार्थी की तरफ से एक कर्मचारी ने साक्ष्य में उपस्थित होकर कहा कि कर्मचारी ने कभी भी एक वर्ष में 240 दिन काम नहीं किया। श्रम न्यायालय ने प्रत्यर्थी के साक्ष्य पर भरोसा किया और मस्टर रोल तथा 1976 से 86 तक की वेतन रजिस्टर न प्रस्तुत करने पर प्रतिकूल अवधारणा ग्रहण कर यह अवधारित किया कि प्रत्यर्थी ने 240 दिन से

ज्यादा कार्य किया अतः उसकी सेवामुक्ति अवैधानिक थी। श्रम न्यायालय ने धारा 25 (एफ), 25 (जी) एवं 25 (एच) की प्रक्रिया का पालन न करने के कारण कर्मचारी को पुनर्स्थापना के लिए आदेशित किया एवं साथ ही पिछले वेतन की 20 प्रतिशत धनराशि अदा करने का निर्देश दिया।

35. माननीय उच्च न्यायालय की एकलपीठ ने श्रम न्यायालय के निर्णय की पुष्टि की तथा श्रम न्यायालय के निर्णय के विरुद्ध अपीलार्थी की याचिका खारिज की। एकल पीठ के निर्णय के विरुद्ध माननीय उच्च न्यायालय की खण्डपीठ ने लेटर्स पेटेंट अपील निरस्त की एवं यह अवधारित किया कि श्रम न्यायालय ने सही अवधारित किया है कि कर्मचारी ने मौखिक साक्ष्य से अपने कथन साबित किया है। माननीय खण्डपीठ ने श्रम न्यायालय द्वारा वेतन पंजिका, मस्टर रोल, तथा कर्मचारियों की वरिष्ठता सूची न प्रस्तुत करने पर ग्रहण की गयी प्रतिकूल अवधारणा को भी सही ठहराया। श्रम न्यायालय ने यह भी अवधारित किया कि प्रत्यर्थी की तुलना में एवं कनिष्क कर्मचारी की सेवा नियमित रूप से जारी रखी गयी और प्रत्यर्थी की सेवा समाप्त कर दी गयी।

36. माननीय सर्वोच्च न्यायालय के समक्ष माननीय उच्च न्यायालय की खण्डपीठ के निर्णय के विरुद्ध अपीलार्थी की यह बहस थी कि माननीय सर्वोच्च न्यायालय ने अपने अनेक निर्णयों में अत्यन्त स्पष्ट रूप से यह अवधारित किया है कि प्रारम्भिक तौर पर सिद्ध करने का दायित्व कर्मचारी पर है कि सेवा समाप्ति की तिथि के पूर्व एक वर्ष में कर्मचारी ने 240 दिन कार्य किया है जो दायित्व निर्वाह करने में कर्मचारी असफल रहा है। यह बहस भी की गयी कि 10 साल का अभिलेख प्रस्तुत न करने पर प्रतिकूल अवधारणा ग्रहण करने की कोई वजह नहीं थी। प्रत्यर्थी की तरफ से यह बहस की गयी श्रम न्यायालय ने प्रतिकूल अवधारणा अभिलेखों के सम्बन्ध में ग्रहण करके श्रम न्यायालय ने सही किया है क्योंकि नियोजक के कब्जे में अभिलेख थे अतः श्रम न्यायालय द्वारा मांग किये जाने पर उसे प्रस्तुत करना नियोक्ता का कर्तव्य था। यह बहस भी की गयी कि अभिलेख नियोक्ता के कब्जे में है इसलिए उसका दायित्व है कि वह सिद्ध करे कि सम्बन्धित अवधि में कर्मचारी ने 240 दिन कार्य नहीं किया है।

37. उभयपक्ष की उक्त बहस के परिपेक्ष्य में माननीय सर्वोच्च न्यायालय ने धारा 2 (ओओ), धारा 25 (बी) एवं 25 (एफ) की स्पष्ट एवं बोधगम्य व्याख्या करते हुए प्रस्तर 8 पष्ठ 43 में कर्मचारी द्वारा तथ्यों को सिद्ध करने के दायित्व के सम्बन्ध में तथा छटनी की वैधानिकता के सम्बन्ध में यह अवधारित किया है, “To attract provisions of Section 25-F, the workman claiming protection under it, has to prove that there exists relationship of employer and employee; that he is a workman within the meaning of Section 2(s) of the Act; the establishment in which he is employed is an industry within the meaning of the Act and he must have put in not less than one year of continuous service as defined by Section 25- B under the employer. These conditions are cumulative. If any of these conditions is missing the provisions of Section 25 –F will not be attracted. To get relief from the court the workman has to establish that he has right to continue in service and that his service has been terminated without complying with the provisions of Section 25-F of the Act.

38. The section postulates three conditions to be fulfilled by an employer for getting a valid retrenchment, namely:-

- (i) one month's clear notice in writing indicating the reasons for retrenchment or that the workman has been paid wages for the period of notice in lieu of such notice;
- (ii) payment of retrenchment compensation which shall be equivalent to 15 day's average pay for every completed year of continuous service or any part thereof, in excess of six months;
- (iii) a notice to the appropriate Government in the prescribed manner."

39. माननीय सर्वोच्च न्यायालय ने प्रस्तर 10 में (1980) 4 एस.सी.सी पृष्ठ 443, सुरेन्द्र कुमार वर्मा बनाम सेन्ट्रल गर्वमेंट इण्डस्ट्रीयल ट्रिब्यूनल कम लेबर कोर्ट में अपने पूर्णपीठ के फैसले सहित अनेक फैसलों का उल्लेख एवं उनकी व्याख्या करते हुए यह अवधारित किया है कि यह सिद्धान्त है कि सिद्ध करने का दायित्व कर्मचारी पर है कि वह दर्शाये कि कथित छटनी की तिथि के ठीक पूर्व एक वर्ष में उसने 240 दिन कार्य किया है और यह दायित्व भी उसी पर है वह स्वयं के साक्ष्य में परिचित कराने के अतिरिक्त साक्ष्य प्रस्तुत करें।

40. निर्णय के प्रस्तर 18 में माननीय सर्वोच्च न्यायालय ने उल्लेख किया है कि प्रत्यर्थी की तरफ से मौखिक साक्ष्य के अतिरिक्त कोई साक्ष्य 240 दिन कार्य करने के सम्बन्ध में नहीं प्रस्तुत किया गया है, न वेतन या मजदूरी के सम्बन्ध में कोई रसीद, या अभिलेख या आदेश प्रस्तुत है, न कोई सहकर्मचारी परिचित कराया गया, न ही नियोक्ता द्वारा प्रस्तुत मस्टर-रोल पर कोई खण्डन प्रस्तुत किया गया।

41. माननीय सर्वोच्च न्यायालय ने यह भी उल्लेख किया है कि यह असम्भव है कि कर्मचारी जो इतनी लम्बी सेवा करने का दावा करता है उसके पास नियोक्ता के अधीन सेवा में लगे रहने तथा कार्य की प्रकृति के सम्बन्ध में कोई अभिलेखीय साक्ष्य नहीं होगा। माननीय सर्वोच्च न्यायालय ने अवधारित किया कि कर्मचारी ने 240 दिन तक कार्य में संलग्न रहने के तथ्य को सिद्ध करने के दायित्व का निर्वाह नहीं किया है एवं विद्वान अधीनस्थ न्यायालयों ने नियोक्ता द्वारा 10 वर्ष का अभिलेख न प्रस्तुत करने के सम्बन्ध में प्रतिकूल अवधारणा गलत ग्रहण की है। माननीय सर्वोच्च न्यायालय ने यह अवधारित किया कि प्रत्यर्थी की सेवा समाप्ति के पूर्व प्रत्यर्थी को धारा 25 (एफ) की सुरक्षा अथवा अनुपालन का अधिकार नहीं था।

42. धारा 25 (जी) एवं 25 (एच) के अनुपालन के सम्बन्ध में यह साक्ष्य था कि दैनिक वेतन भोगी की सूची का रखरखाव अपीलार्थी द्वारा नहीं किया जाता। इस सम्बन्ध में माननीय सर्वोच्च न्यायालय ने यह अवधारित किया है कि कर्मचारी की नियमित सेवा के अभाव में अपीलार्थी से दैनिक वेतन भोगियों की वरिष्ठता सूची के रख रखाव की उम्मीद नहीं की जा सकती है। अभिलेखों की मांग पर अपीलार्थी द्वारा न प्रस्तुत किये जाने पर धारा 114 (III) (जी) भारतीय साक्ष्य अधिनियम के अन्तर्गत न्यायालय द्वारा प्रतिकूल अवधारणा ग्रहण किये जाने के सम्बन्ध में माननीय सर्वोच्च न्यायालय ने यह अवधारित किया है कि ऐसी अवधारणा ग्रहण करने पूर्व न्यायालय के समक्ष कर्मचारी द्वारा इस बात का साक्ष्य प्रस्तुत करना होगा कि कोई वरिष्ठता सूची अस्तित्व में है अन्यथा प्रतिकूल अवधारणा ग्रहण करने की अनुतोष नहीं प्रदान की जा सकती। न्यायालय द्वारा प्रतिकूल अवधारणा ग्रहण करने हेतु अधिकार प्रदत्त होने के लिए न्यायालय को सन्तुष्ट होना अनिवार्य है कि साक्ष्य अस्तित्व में है और उसे सिद्ध किया जा सकता था। माननीय सर्वोच्च न्यायालय ने तदनुसार अपील स्वीकार की।

43. वर्तमान मामले के तथ्य एवं परिस्थितियों को दृष्टिगत रख यह स्पष्ट है कि माननीय सर्वोच्च न्यायालय द्वारा प्रदत्त उक्त विधि व्यवस्था वर्तमान मामले में लागू होती है। प्रार्थी के स्वयं के साक्ष्य एवं कथन के अनुसार उसके दैनिक वेतनभोगी होने के कारण धारा 25 जी एवं 25 एच के प्रावधान उसके मामले में आकर्षित नहीं होते हैं और प्रार्थी को धारा 25 जी एवं 25 एच की सुरक्षा अथवा अनुपालन पाने का अधिकार नहीं है।

44. पक्षकारों के अभिवचनों, उसके समर्थन में उभयपक्ष द्वारा प्रस्तुत साक्ष्य तथा सम्बन्धित तथ्य एवं परिस्थितियों, सृजित वाद बिन्दुओं पर प्राप्त निष्कर्ष और उक्त दृष्टान्त में दी गई विधि व्यवस्था को दृष्टिगत रखते हुए मैं इस निष्कर्ष पर हूँ कि प्रार्थी पक्ष इस तथ्य को सिद्ध करने में असफल है कि प्रार्थी की सेवा समाप्ति की तिथि 1.3.2007 के ठीक पूर्व प्रार्थी ने एक कलैण्डर वर्ष में 240 दिन नियमित सेवा की है और विपक्षी की सेवा में नियुक्त होने के तथ्य को भी प्रार्थी पक्ष सिद्ध नहीं कर सका है, तदनुसार भारतीय संचार निगम लिमिटेड द्वारा दिनांक 1.3.2007 से प्रार्थी की सेवा समाप्ति का आदेश विधिक एवं न्यायसंगत है तथा प्रार्थी कर्मकार श्री दिलीप हरिजन याचित अनुतोष पाने का हकदार नहीं है। प्रार्थी की स्टेटमेन्ट ऑफ क्लेम खारिज होने योग्य है एवं तदनुसार खारिज की जाती है। न्यायनिर्णयन हेतु प्रेषित निर्देश का उत्तर उक्त प्रकार दिया जाता है। पंचात तदनुसार पारित किया जाता है।

भरत पाण्डेय, पीठासीन अधिकारी

नई दिल्ली, 29 दिसम्बर, 2014

का.आ. 35.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार राजस्थान एटॉमिक पावर स्टेशन की यूनिट, रावतभाटा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचात (संदर्भ संख्या 14/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-42011/131/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 29th December, 2014

S.O. 35.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 14/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Rajasthan Atomic Power Station Unit, Rawatbhata and their workman, which was received by the Central Government on 22/12/2014.

[No. L-42011/131/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
JAIPUR**

BHARAT PANDEY, Presiding Officer

I.D. 14/2014**Reference No.L-42011/131/2013-IR(DU)**

Dated: 6.3.2014

The Secretary,
Parmanu Vidyut Karmachari
Union (CITU), Office CITU Union,
Phase 2, Rawatbhata (Kota)-323305.

V/s

Site Executive Director,
Rajasthan Atomic Power
Station Unit, R.R.Site,
Rawatbhata (Kota).

AWARD

25.11.2014

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

“क्या अप्रार्थी प्रबंधन द्वारा श्री चुन्नीलाल कार्यदक्ष बी सिविल अनुभाग को कार्यदक्ष सी के पद पर पदोन्नति लाभ से वंचित रखे जाने की कार्यवाही वैध व न्यायोचित है? यदि नहीं तो प्रार्थी कर्मचारी किस राहत का व कब से पाने का हकदार है?”

2. After receipt of reference notices were sent to both the parties fixing 24.6.2014 for filing statement of claim. On 24.6.2014 Sh. Kuldip Aswal, Advocate learned counsel for applicant appeared on behalf of applicant & alleged to file authority & statement of claim from the applicant side. Sh. Dharmendra Jain, Advocate came in appearance on behalf of opposite party & alleged to file authority from the opposite side on next date. Next date 8.9.2014 was fixed for filing authority from both the side & statement of claim from the applicant side. None appeared from both the side on 8.9.2014. There was advocate strike on 8.9.2014 hence, 24.11.2014 was fixed by the tribunal adjourning the proceeding for the day on its own motion for filing statement of claim. On 24.11.2014 none appeared for the applicant side hence, opportunity for filing statement of claim was closed in view of the fact that applicant is not showing any interest in filing the statement of claim & bringing the reference to a logical conclusion. It is important to note that on 24.11.2014 when case was taken up for hearing learned representative of the opposite party appeared & alleged that another CGIT case no.13/2014 is pending before this tribunal which is based exactly on the same reference as in the present case. From perusal of CGIT case no. 13/2014 it is clear that reference is exactly same as in the present case. In that view of the matter I am of the view that one file will be sufficient to answer the reference & there is no need to proceed with two cases

parallely. Accordingly, this reference being earlier than CGIT case no.13/2014 is disposed for want of statement of claim in absence of applicant.

3. It is pertinent to note that vide Labour Ministry's order dated 6.3.2014 applicant was directed to file statement of claim with complete relevant documents & list of witnesses with the tribunal within 15 days from the receipt of above order of reference forwarding the copy of statement of claim to each of the opposite parties involved in this dispute but applicant failed to file statement of claim in compliance of that order also. In above fact & circumstances, it is clear that beside the order of the Labour Ministry, notices sent by tribunal also have failed to initiate the applicant for submitting the statement of claim.

4. Applicant has neither filed statement of claim on the direction of Ministry nor on receipt of notice sent by the tribunal. It appears that applicant is not interested & willing in submitting the claim for adjudication. In the above circumstances & in the absence of material brought on record it is not possible to adjudicate the reference under consideration, therefore, “No Claim Award” is passed in this matter. The reference under adjudication is answered accordingly.

5. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 29 दिसम्बर, 2014

का.आ. 36.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार राजस्थान एटॉमिक पावर स्टेशन की यूनिट, रावतभाटा के प्रबंधन के संबंध में निोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 12/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-42011/130/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 29th December, 2014

S.O. 36.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 12/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Rajasthan Atomic Power Station Unit, Rawatbhata and their workman, which was received by the Central Government on 22/12/2014.

[No. L-42011/130/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
JAIPUR**

BHARAT PANDEY, PRESIDING OFFICER

I.D.12/2014**Reference No.L-42011/130/2013-IR(DU)**

Dated: 11.2.2013

General Secretary
Rajasthan Atomic Project Karamchhari
Sangh, (Intuc), Intuc Office,
Pratap Circle, PO- Bhabhanagar,
Rawatbhata via Kota.

V/s

Executive Director (Site)
Rajasthan Atomic Electricity House
R.R.Site, Rawatbhata via Kota.

AWARD

25.11.2014

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-Section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

“क्या अप्रार्थी प्रबंधन द्वारा श्री बी. आर. रावत जे. सी. ए बी केन्टीन को दिनांक 01.04.2009 से एम. ए. सी. पी. के तहत फाइनेंसियल अपग्रेडेशन नहीं दिए जाने की कार्यवाही वैध व न्यायोचित है? यदि नहीं तो प्रार्थी कर्मचारी किस राहत का व कब से पाने का हकदार है?”

2. After receipt of reference notices were sent to both the parties fixing 24.6.2014 for filing statement of claim. On 24.6.2014 Sh. Kuldeep Aswal, Advocate learned counsel for applicant appeared on behalf of applicant & alleged to file authority & statement of claim from the applicant side. Sh. Dharmendra Jain, Advocate came in appearance on behalf of opposite party & alleged to file authority from the opposite side on next date. Next date 8.9.2014 was fixed for filing authority from both the side & statement of claim from the applicant side. None appeared from both the side on 8.9.2014. There was advocate strike on 8.9.2014 hence, 24.11.2014 was fixed by the tribunal adjourning the proceeding for the day on its own motion for filing statement of claim. On 24.11.2014 none appeared for the applicant side hence, opportunity for filing statement of claim was closed in view of the fact that applicant is not showing any interest in filing the statement of claim & bringing the reference to a logical conclusion. It is important to note that on 24.11.2014 when case was taken up for hearing learned representative of the opposite party

appeared & alleged that another CGIT case no.27/2014 is pending before this tribunal which is based exactly on the same reference as in the present case. From perusal of CGIT case No. 27/2014 it is clear that reference is exactly same as in the present case. In that view of the matter I am of the view that one file will be sufficient to answer the reference & there is no need to proceed with two cases parallelly. Accordingly, this reference being earlier than CGIT case No.27/2014 is disposed for want of statement of claim in absence of applicant.

3. It is pertinent to note that vide Labour Ministry's order dated 11.2.2013 applicant was directed to file statement of claim with complete relevant documents & list of witnesses with the tribunal within 15 days from the receipt of above order of reference forwarding the copy of statement of claim to each of the opposite parties involved in this dispute but applicant failed to file statement of claim in compliance of that order also. In above fact & circumstances, it is clear that beside the order of the Labour Ministry, notices sent by tribunal also have failed to initiate the applicant for submitting the statement of claim.

4. Applicant has neither filed statement of claim on the direction of Ministry nor on receipt of notice sent by the tribunal. It appears that applicant is not interested & willing in submitting the claim for adjudication. In the above circumstances & in the absence of material brought on record it is not possible to adjudicate the reference under consideration, therefore, “No Claim Award” is passed in this matter. The reference under adjudication is answered accordingly.

5. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 30 दिसम्बर, 2014

का.आ. 37.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उप मंडल अधिकारी (टेलीग्राफ), रायगढ़ के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर 127/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-40012/146/2000-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 30th December, 2014

S.O. 37.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. CGIT/LC/R/127/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between

the employers in relation to the management of the Sub-Divisional Officer (Telegraphs), Raigarh and their workman, which was received by the Central Government on 22/12/2014.

[No.L-42012/146/2000-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/127/00

Shri Amar Singh Soni,
S/o Late Tara Bahadur Soni,
Telephone Exchange,
Raigarh

...Workman

Versus

Sub-Divisional Officer (Telegraphs),
Raigarh

...Management

AWARD

Passed on this 18th day of November, 2014

1. As per letter dated 30-6-00 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-40012/146/2000/IR(DU). The dispute under reference relates to:

“ Whether the action of Sub-Divisional Officer (Telegraphs), Raigarh (MP) in terminating the services of Shri Amar Singh Soni, Ex-casual worker w.e.f. 1-1-1997 is justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/2. Case of Ist party workman is that he was working at casual mazdoor under Sub-Division Officer, Telephone Raigarh from 16-11-92, his working days are shown in Para-2 of his statement of claim – 11 days in 1992, 305 days in 1993, 290 days in 1994, 295 days in 1995 & 303 days in 1996. Workman submits that he was employed for installation and maintenance of telephone lines. He was terminated from 1-1-97. However he continued to be employed though contractor that he was paid till 31-12-96. His wages were reduced by Rs. 300-400 pm from 1-1-1997. Notice was not served on him, he was not paid compensation for pay in lieu of notice. The termination of his service by IInd party is illegal. However workman has prayed for temporary status/regularization of his services.

3. IInd party filed Written Statement at Page 7/1 to 7/4. It is submitted that workman is challenging action of IInd party in not allowing him temporary status and consequential benefits. It is submitted that casual workers were engaged by deptt. for targeted work on daily wages. The workers were not engaged on regular basis. The contracts of departmental casual labors on muster roll is automatically terminated on expiry of stipulated time at end of every month. For next month such labour is not deployed if he desires to work either under same Officer or other therefore termination of service of workman doesnot arise. Workman was engaged as casual labour on 7-11-89. He is not entitled to benefit of said scale. It is reiterated that workman was not engaged during 31-3-85 to 22-6-88. Workman was not continuing in service. He remained absent for more than 365 days. Workman did not work on muster roll as per available records. Workman was daily wagger. There was no question of termination of his service. Workman has started his own job. Workman doesnot fulfill requirements of the scheme for regularization. All other adverse contentions of workman are denied. It is submitted that workman is not entitled for regularization.

4. Workman died during pendency of reference proceeding, his LR's are brought on record.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of Sub Divisional Officer (Telegraphs), Raigarh (MP) in terminating the services of Shri Amar Singh Soni, Ex-casual worker w.e.f. 1-1-1997 is justified? In Affirmative

(ii) If not, what relief the workman is entitled to? LR's of workman is not entitled to any relief.

REASONS

6. As per terms of reference, legality of termination of service of workman is challenged. Workman died during pendency of reference, his LR's are brought on record. though widow of workman filed affidavit of her evidence, she failed to appear for her cross-examination. Her evidence cannot be considered. Management's witness Shri C. R. Raj filed affidavit of his evidence supporting contentions of management that workman was engaged as casual labour. He was not working prior to 31-3-1985, he was not continued to work on 7-11-1989. Workman is not fulfilling conditions of working 240 days in a year. He is not entitled for regularization. Evidence of management witness remained unchallenged. There is no reason to discard his evidence. For reasons discussed above, I record my finding in Point No.1 in Affirmative.

7. In the result, award is passed as under:-

- (1) The action of Sub-Divisional Officer (Telegraphs), Raigarh (MP) in terminating the services of Shri Amar Singh Soni, Ex-casual worker w.e.f. 1-1-1997 is legal and proper.
- (2) LR's are not entitled for any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 30 दिसम्बर, 2014

का.आ. 38.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सरकारी अफीम और उपक्षार फैक्ट्री, नीमच के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सीजीआईटी/एलसी/आर संख्या 58/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-42011/94/2010-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 30th December, 2014

S.O. 38.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. CGIT/LC/R/58/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Government Opium & Alkaloid Factory, Neemuch and their workman, which was received by the Central Government on 22/12/2014.

[No.L-42011/94/2010-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/58/2011

Shri Shrikant Palohia,
R/o J-11, Alkaloid Colony,
Neemuch

...Workman

Versus

General Manager,
Govt. Opium & Alkaloid Factory,
Neemuch

...Management

AWARD

Passed on this 24th day of November, 2014

1. As per letter dated 25-5-2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under

Section -10 of I.D. Act, 1947 as per Notification No.L-42011/94/2010-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Opium & Alkaloid Factory, Neemuch in terminating the services of Shri Shrikant Palohia by way of compulsory retirement w.e.f. 14-6-2010 is legal and justified? What relief the workman is entitled to?”

2. As per order dated 25-5-2011, the dispute between parties is referred for adjudication. Notices were issued to parties dated 22-9-2011, 25-4-12, 27-2-13, 9-7-13, 19-11-13, 16-6-14 & 18-7-14. Despite of repeated notices issued, parties have not participated in reference proceeding. It appears that Ist party is not interested to prosecute its claim under reference and IInd party has also not shown interest to participate in the reference proceeding. Under such set of facts, no dispute award is passed.

R. B. PATLE, Presiding Officer

नई दिल्ली, 30 दिसम्बर, 2014

का.आ. 39.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आयुध निर्माणी, जबलपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सीजीआईटी/एलसी/आर संख्या 148/1992) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-14012/109/1991-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 30th December, 2014

S.O. 39.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. CGIT/LC/R/148/1992) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Ordnance Factory, Jabalpur and their workman, which was received by the Central Government on 22/12/2014.

[No.L-14012/109/1991-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/148/92

Shri Tarachand
C/o Shri R.C. Shrivastava, Advocate,
B-46/1, Ratan Nagar,
Jabalpur.

...Workman

Versus

General Manager,
Ordnance Factory,
Khamaria,
Jabalpur

...Management

AWARD

Passed on this 26th day of November, 2014

1. As per letter dated 27-7-92 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-14012/109/91-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Ordnance Factory, Khamaria, MP in terminating the services of Shri Tarachand, Ex-T. No. YD/353/63779 w.e.f. 15-1-91 is legal and justified? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 5/1 to 5/2. Case of Ist party is that he was employed with IInd party. His service record was excellent, workman was served with charge sheet alleging forgery of signature of Shri Rajesh Kumar EST/13, drawing his payment. Workman had denied charges, enquiry was initiated against him. Enquiry Officer held charges against workman proved. On report of Enquiry Officer, he was dismissed from service, workman pleaded that he was not given opportunity for his defence. Relevant documents were not shown to him during Enquiry Proceedings. Enquiry was conducted in violation of principles of natural justice. The findings of Enquiry Officer are perverse. Workman prays for his reinstatement with backwages.

3. IInd party filed Written Statement at Page 3/1 to 3/2. Case of IInd party is that Shri Rajesh Kumar Token No.YD/353/63779 was its employee. He did not receive its payment for December 1989 as he was absent on day of payment. It was found that on pay roll of December 1989, payment of Shri Rajesh Kumar was received though he was absent. The complaint in writing was received. On investigation, it was found that workman forged signature of Shri Rajesh Kumar on register and received salary of Rs. 328.05 when Shri Rajesh Kumar was absent. That after issuing charge sheet, workman had denied charges against him, enquiry was conducted against workman allowing opportunity for his defence. After receiving report of Enquiry Officer, penalty of dismissal was imposed by General Manager. It is further submitted that penalty of reduction of pay was also imposed by General Manager. Appeal was preferred by workman. That in Ordnance Factory Khamaria, Jabalpur, there are several thousands employees. The misconduct committed by workman is of serious nature. In the interest of harmony among Govt. servants, it is necessary to

discourage such acts. On such grounds, IInd party prays for rejection of claim of workman.

4. As per order dated 30-6-2014, dealing with preliminary issue, it was held that no enquiry was conducted against workman before imposing punishment on him.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---------------------|
| (i) “Whether the action of the management of Ordnance Factory, Khamaria, MP in terminating the services of Shri Tarachand, Ex-T. No.YD/353/63779 w.e.f. 15-1-91 is legal and justified?” | In Negative |
| (ii) If not, what relief the workman is entitled to?” | As per final order. |

REASONS

6. In view of order dated 13-6-04, it was found that no enquiry was conducted against workman before imposing punishment of dismissal against him. IInd party was given opportunity to prove misconduct adducing evidence. However IInd party failed to adduce evidence to prove any misconduct alleged against workman, as such no evidence is adduced by IInd party to prove misconduct on part of workman. Workman has filed affidavit of evidence denying forgery of documents of receiving pay of Shri Rajesh Kumar. Management’s witness Shri B.B.Singh filed his affidavit that enquiry was conducted against workman about the allegation that workman had forged signature of Shri Rajesh Kumar and received his pay Rs. 328.05. in his cross-examination, management’s witness denied suggestion that workman was terminated from service without conducting enquiry. However record of enquiry is not produced by IInd party. In absence of any evidence to prove charges alleged against workman, the punishment of dismissal from service imposed on workman is illegal. For above reasons, I record my finding on Point No.1 in Negative.

7. Point No.2- In view of my finding in Point No.1, punishment of dismissal against workman is illegal, question arises whether workman is entitled for reinstatement with full backwages. Workman is dismissed from service for charges of forgery receiving salary of Shri Rajesh Kumar. The charges are not supported by any evidence therefore order of dismissal of workman cannot be sustained. It deserves to be quashed and set-aside. The evidence of workman and witness of management is not clear about gainful employment of workman. Considering Ist party workman was terminated in 1991 and there is no clear evidence about his gainful

employment, in view considered view, reinstatement of Ist party workman with 40 % backwages would be appropriate. Accordingly I record my finding in Point No.2.

8. In the result, award is passed as under:-

- (1) The action of the management of Ordnance Factory, Khamaria, MP in terminating the services of Shri Tarachand, Ex-T.No.YD/353/63779 w.e.f. 15-1-91 is not legal and proper.
- (2) Ist party is directed to reinstate workman with continuity of service with 40 % backwages.

R. B. PATLE, Presiding Officer

नई दिल्ली, 30 दिसम्बर, 2014

का.आ. 40.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे, के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के स्थान पर औद्योगिक अधिकरण जयपुर के पंचाट (संदर्भ संख्या 60/1991) के शुद्धिकरण पत्र को प्रकाशित करती है जो केन्द्रीय सरकार को 01/10/2014 को प्राप्त हुआ था।

[सं. एल-41012/32/1991-आईआर (बी.-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 30th December, 2014

S.O. 40.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Corrigendum on Award (Ref. No. 60/1991) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur it may be read as Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the management of the Western Railway and their workman, which was received by the Central Government on 14/10/2014.

[No. L-41012/32/1991-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

अनुबन्ध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं० सी.आई.टी. 60/1991

रैफरेंस : केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-41012/32/91- आई.आर.(डी.यू.) दिनांक 30.10.1991

घोसूलाल पुत्र श्री बुद्धाराम टि.नं. 24405,

इलैक्ट्रोप्लेटर ग्रेड-II,

आर्गेनाइजिंग सीक्रेटरी,

पश्चिम रेलवे कर्मचारी परिषद,

रेलवे क्वार्टर संख्या 1188/ए, रामगंज रेलवे कॉलोनी,

अजमेर-305001

...प्रार्थी

बनाम

1. महाप्रबंधक, पश्चिम रेलवे, चर्चगेट, बम्बई।

2. मुख्य कारखाना प्रबंधक, लोको अजमेर।

3. उप मुख्य यांत्रिक अभियंता कैरज का० अजमेर।

...अप्रार्थीगण

उपस्थित

पीठासीन अधिकारी: श्री हेमन्त कुमार जैन, आर.एच.जे.एस.

प्रार्थी की ओर से : श्री विक्रम सिंह नैन

अप्रार्थीगण की ओर से : श्री पूर्णन्द्र शर्मा

दिनांक अवार्ड : 07.02.2014

अवार्ड

1. भारत सरकार के श्रम मंत्रालय की आज्ञा क्रमांक 41012/32/91 दिनांक 30.10.1991 से निम्न अनुसूची का विवाद "Whether the the action of the management of Western Railway, Ajmer in terminating the services of Shri Ghisulal, Electroplater, T.No. 24405/25 in C&W at Ajmer w.e.f. 08.01.88 is justified? If not, to what relief the workmen concerned is entitled to?" अधिनिर्णय हेतु इस अधिकरण को प्राप्त हुआ है।

2. प्रार्थी श्रमिक की ओर से स्टेटमेंट ऑफ क्लेम पेश कर कथन किया कि प्रार्थी की नियुक्ति दिनांक 02.05.76 को कल्चरल स्पोर्ट कोटे के आधार पर खलासी के पद पर कैरज कारखाने में हुयी थी। प्रार्थी द्वारा अपनी भर्ती के समय अपनी शैक्षणिक योग्यता एवं जन्म तिथि का कोई प्रमाण प्रस्तुत नहीं किया गया था, केवल घरवालों के बताये अनुसार जन्मतिथि लिखवायी थी और फार्म भरने वाले लिपिक एवं सर्विस शीट भरने वाले बाबू ने उसे आठवीं पास लिख दिया था। प्रार्थी को केवल नाटक में सफल एवं सबल अभिनय के प्रदर्शन के आधार पर ही नौकरी में लिया गया था। प्रार्थी के विरुद्ध शिकायत करने वाले व्यक्ति ने कोई भी प्रमाणपत्र प्रस्तुत नहीं किया कि प्रार्थी कोई शैक्षणिक योग्यता रखता है या आयु गलत है। अप्रार्थी द्वारा विभागीय जांच में अनियमितता बरतते हुये विभागीय जांच कर गलत ढंग से सेवापृथक कर दिया गया। प्रार्थी द्वारा सेवापृथक आदेश के विरुद्ध अपील की गयी, जिसका कोई उत्तर नहीं दिया गया। प्रार्थी सेवापृथक की दिनांक से ही बेरोजगार है। अतः प्रार्थी को पुनः सेवा में लिया जाकर सभी लाभ-परिणाम दिलाये जावें।

3. अप्रार्थीगण की ओर से स्टेटमेंट ऑफ क्लेम का जवाब प्रस्तुत कर प्रारम्भिक आपत्ति की कि प्रार्थी श्रमिक की परिभाषा में नहीं आता है तथा औद्योगिक विवाद अधिनियम 1947 के प्रावधानों के अन्तर्गत इस विवाद को सुनने का अधिकार न्यायाधिकरण को नहीं है। प्रार्थी द्वारा नियुक्ति के समय गलत जन्मतिथि एवं शैक्षणिक योग्यता दिये जाने पर नियमानुसार नौकरी से हटाया गया है। गुणावगुण पर अप्रार्थीगण का कथन है कि प्रार्थी की नियुक्ति कल्चरल कोटा से नहीं की जाकर अनएप्लूड सब्सीट्यूट खलासी के पद पर दिनांक 02.07.76 को की गयी थी। प्रार्थी द्वारा भर्ती के समय अपनी शैक्षणिक योग्यता आठवीं बतायी गयी थी तथा साक्ष्यांकन प्रपत्र भी पेश किया गया था, जिसमें आठवीं कक्षा उत्तीर्ण व स्कूल छोड़ने की तारीख 02.07.62 लिखी हुयी थी। रेलवे प्रशासन द्वारा प्रार्थी की आयु व शैक्षणिक योग्यता की संबंधित विद्यालय से जांच करने पर, प्रार्थी का उक्त शाला में अध्ययनरत नहीं होना और आठवीं कक्षा उत्तीर्ण नहीं करना

पाये जाने पर नियमानुसार प्रार्थी के विरुद्ध गलत तथ्य बताकर नौकरी प्राप्त करने के आरोप में विभागीय जांच कराकर आरोप सिद्ध पाये जाने पर दिनांक 08.01.88 को सेवापृथक किया गया है। जो विधि अनूकूल है। अतः क्लेम खारिज किया जावे।

4. न्यायाधिकरण के आदेश दिनांक 05.10.98 द्वारा विभागीय जांच को अशुद्ध एवं अनुचित घोषित किया गया। विपक्षी की ओर से कोई साक्ष्य पेश नहीं होने पर दिनांक 19.05.99 को साक्ष्य विपक्षी बंद की गयी। साक्ष्य प्रार्थी में स्वयं प्रार्थी श्री घीसूलाल का शपथ पत्र पेश हुआ है।

5. न्यायाधिकरण के आदेश दिनांक 23.08.99 द्वारा प्रार्थी को अंतरिम राहत के रूप में पचास प्रतिशत वेतन अदा करने के आदेश दिये गये। विपक्षी द्वारा अन्तरित राहत का भुगतान नहीं किये जाने पर न्यायाधिकरण द्वारा अवार्ड दिनांक 31.07.2000 द्वारा प्रार्थी को पुनः सेवा में लिया जाकर पिछले वेतन भत्तों सहित सेवा में लिये जाने का आदेश दिया गया।

6. अप्रार्थीगण द्वारा माननीय उच्च न्यायालय में उक्त अवार्ड के विरुद्ध रिट याचिका पेश किये जाने पर माननीय उच्च न्यायालय द्वारा पुनः प्रकरण का गुणावगुण पर निस्तारण किये जाने के आदेश दिये गये।

7. उभय पक्षों की बहस सुनी गयी। पत्रावली का अवलोकन किया गया।

8. प्रार्थी प्रतिनिधि का कथन है कि प्रार्थी की नियुक्ति दिनांक 02.07.76 को कल्चरल स्पोर्ट्स कोटे से खलासी एवजी के पद पर अस्थायी रूप से की गयी थी, जिसे बाद में स्थायी कर दिया गया। प्रार्थी को व्यावसायिक परीक्षा उत्तीर्ण करने पर दिनांक 15.11.1980 को इलेक्ट्रोप्लेटर ग्रेड-I एवं दिनांक 03.04.86 को इलेक्ट्रोप्लेटर ग्रेड-II के पद पर पदोन्नत किया गया है। प्रार्थी प्रतिनिधि का तर्क है कि विपक्षी की ओर से प्रार्थी के नियमितीकरण, पदोन्नति, सर्विस बुक आदि न्यायाधिकरण के आदेश के बावजूद प्रस्तुत नहीं किये गये हैं। उक्त रिकार्ड खोने के संबंध में कोई रिकार्ड पेश नहीं किया गया। प्रार्थी प्रतिनिधि का तर्क है कि विपक्षी द्वारा खलासी के पद पर क्या निर्धारित योग्यता थी, इस संबंध में कोई विज्ञापन तथा नियम पेश नहीं किये गये हैं। प्रार्थी की नियुक्ति किस कोटे के तहत की गयी, इस संबंध में भी कोई प्रलेख पेश नहीं किया गया है। प्रार्थी प्रतिनिधि का कथन है कि प्रार्थी द्वारा शैक्षणिक योग्यता के संबंध में कोई प्रमाण-पत्र पेश नहीं किया गया है और जन्म तिथि माता-पिता के बताये अनुसार लिखायी गयी है। प्रार्थी द्वारा कोई फर्जी दस्तावेजात् प्रस्तुत कर नौकरी प्राप्त नहीं की गयी है। विपक्षी की ओर से न्यायाधिकरण के समक्ष आज तक पूरा रिकार्ड प्रस्तुत नहीं किया गया है। दिनांक 05.10.98 को विभागीय जांच को अशुद्ध घोषित किया जा चुका है। विपक्षी की ओर से कोई साक्ष्य पेश नहीं हुयी है। जांच में प्रार्थी को दस्तावेजात् उपलब्ध नहीं कराये गये। जांच अधिकारी एवं विभागीय प्रतिनिधि कब नियुक्त किये गये और इसकी सूचना भी प्रार्थी को नहीं दी गयी। प्रार्थी को व्यक्तिगत सुनवाई का अवसर नहीं दिया गया। जांच प्रतिवेदन की प्रति उपलब्ध नहीं कराई गयी। प्रार्थी को दिनांक 08.01.88 को सेवापृथक कर दिया गया। जिसके विरुद्ध प्रार्थी द्वारा अभ्यावेदन दिनांक 07.09.87 को पेश किया गया। प्रार्थी द्वारा प्रस्तुत अपील, रिवीजन दोनों खारिज कर दी गयीं। विपक्षी को निर्वाह भत्ते का भुगतान नहीं किये जाने पर न्यायाधिकरण द्वारा विपक्षी के विरुद्ध दिनांक 31.7.2000 को अवार्ड पारित किया जा चुका है। विपक्षी की ओर से प्रार्थी को निर्वाह भत्ते का आज तक भुगतान नहीं किया गया। प्रार्थी द्वारा पूरी जांच में यही कथन किया गया है कि वह पढ़ा-लिखा नहीं है, वह केवल हस्ताक्षर करना ही जानता है। प्रार्थी प्रतिनिधि का कथन है कि विपक्षी द्वारा न्यायाधिकरण को

रेफरेंस सुनने का क्षेत्राधिकार नहीं होने के संबंध में विपक्षी रेफरेंस को चैलेंज करते, अब इतने वर्षों बाद यह तर्क नहीं दिया जा सकता। अतः प्रार्थी को पुनः सेवा में लिये जाने तथा पिछले वेतन-भत्ते तथा सभी लाभ दिलाये जाने का अवार्ड पारित किया जावे। प्रार्थी प्रतिनिधि द्वारा अपने तर्कों के समर्थन में निम्न न्यायिक दृष्टांत पेश किये गये हैं :-

1. 1992 लेब आई सी 2391 (एस.सी.) स्टेट ऑफ पंजाब व अन्य बनाम राम सिंह
2. 2001 II एल एल जे 1721 (मद्रास) मैनेजमेंट ऑफ ऑरो फूड लि. बनाम पी.ओ.
3. (1999) 1 एस सी सी 517 नीता कप्लिश बनाम पी.ओ. लेबर कोर्ट व अन्य।
4. (1999) 1 एस सी सी 529 स्टेट ऑफ गुजरात व अन्य बनाम सूर्यकांत चुनीलाल

9. विपक्षी के विद्वान प्रतिनिधि का कथन है कि प्रार्थी श्रमिक की परिभाषा में नहीं आता है। न्यायाधिकरण को औ0वि0अधि0 1947 की धारा 7 क(1) के तहत सुनने व निर्णित करने का अधिकार नहीं है। अप्रार्थी प्रतिनिधि का तर्क है कि प्रार्थी द्वारा नियुक्ति के समय 08.11.76 के साक्षांकन पत्र के कॉलम संख्या 10 में, जिसे राजपत्रित अधिकारी से सत्यापित कराकर व अपने हस्ताक्षर कर पेश की गयी थी, जिसमें प्रार्थी के विद्यालय का नाम रा0उ0प्रा0वि0विद्यालय अलवर गेट, अजमेर, विद्यालय में प्रवेश की दिनांक 08.09.1959, विद्यालय छोड़ने की दिनांक 02.07.1962 तथा योग्यता आठवीं पास लिखी हुयी थी। प्रार्थी के जन्मतिथि व शैक्षणिक योग्यता का सत्यापन कराने पर राज0उ0प्रा0वि0 अलवर गेट, अजमेर के प्रधानाचार्य ने अपने पत्र दिनांक 22.10.86 व 13.12.86 में स्पष्ट किया कि उक्त विद्यालय 1961 तक छठवीं कक्षा तक था तथा उसके बाद आठवीं तक में परिवर्तित किया गया। अतः श्री घीसूलाल का विद्यालय में अध्ययन करना एवं आठवीं उत्तीर्ण होना दोनों ही गलत है। प्रार्थी द्वारा नियुक्ति के लिये गलत तथ्य एवं प्रमाणपत्र दिये जाने पर आरोप पत्र जारी कर नियमानुसार विभागीय जांच करायी गयी, जिसमें आरोप सही पाये जाने पर सेवापृथक किया गया है। प्रार्थी ने जांच रिपोर्ट से भी संतुष्ट होना बताया है। प्रार्थी प्रतिनिधि द्वारा लिपिक द्वारा योग्यता भरा जाना बताया है, लेकिन यह योग्यता भी प्रार्थी के कहे जाने पर ही लिपिक द्वारा भरी होगी, इसमें लिपिक का क्या इन्टेंशन था। प्रतिनिधि का तर्क है कि खलासी के पद हेतु आठवीं कक्षा उत्तीर्ण होना आवश्यक है। प्रार्थी के आठवीं उत्तीर्ण नहीं पाये जाने पर उसे सेवापृथक किया गया है। प्रार्थी द्वारा प्रस्तुत अपील को भी सारहीन मानकर दण्ड यथावत रखा है। प्रार्थी प्रतिनिधि द्वारा अपनी याचिका में अपनी जन्मतिथि व शैक्षणिक योग्यता के प्रमाणपत्र पेश नहीं करने का कोई कारण नहीं बताया है। प्रतिनिधि का तर्क है कि प्रार्थी द्वारा निर्धारित योग्यता नहीं रखने के कारण प्रार्थी को सेवापृथक किया गया है। प्रार्थी द्वारा प्रस्तुत क्लेम खारिज किये जाने योग्य है। अप्रार्थी प्रतिनिधि द्वारा अपने तर्कों के समर्थन में निम्न न्यायिक दृष्टांत पेश किये गये हैं -

1. (2012) 8 एस सी सी 748 जैनेन्द्र सिंह बनाम स्टेट ऑफ उत्तर प्रदेश।
10. उभय पक्षों के तर्कों का मनन किया। पत्रावली का गहनता से अवलोकन व अध्ययन किया गया।

प्रार्थी श्री घीसूलाल की नियुक्ति दिनांक 01.07.76 को दिनांक 02.07.76 से रिक्त खलासी के पद के विरुद्ध अस्थायी एवजी खलासी के पद पर

अस्थायी रूप से की गयी थी। प्रार्थी श्री घीसूलाल द्वारा दिनांक 02.07.76 को उक्त पद पर कार्यभार ग्रहण किया गया। दिनांक 15.02.80 के आदेश द्वारा प्रार्थी की नियुक्ति दिनांक 02.07.76 से खलासी के पद पर नियमित रूप से मानी गयी है। प्रार्थी को व्यावसायिक परीक्षा उत्तीर्ण करने पर दिनांक 15.04.80 से इलेक्ट्रोप्लेटर ग्रेड-I के पद पर एवं आदेश दिनांक 07.05.86 द्वारा इलेक्ट्रोप्लेटर के पद पर पदोन्नत किया गया है।

11. विभागीय जांच को न्यायाधिकरण के आदेश दिनांक 05.10.98 द्वारा अशुद्ध एवं अनुचित घोषित किया गया है। विपक्षी की ओर से कोई साक्ष्य पेश नहीं होने पर न्यायाधिकरण द्वारा साक्ष्य विपक्षी दिनांक 19.05.99 को बंद की गयी तथा साक्ष्य प्रार्थी में स्वयं प्रार्थी का शपथ पत्र पेश हुआ है, जिससे विपक्षी प्रतिनिधि द्वारा प्रतिपरीक्षा नहीं की गयी है। प्रार्थी घीसूलाल ने अपने शपथ पत्र में बयान किया है कि प्रार्थी द्वारा अपनी नियुक्ति के समय कभी भी स्वयं को आठवीं उत्तीर्ण नहीं बताया गया तथा उसकी नियुक्ति नाटक कोटे के आधार पर होना कथन किया है। प्रार्थी श्रमिक ने अपने बयानों में बताया है कि विपक्षी द्वारा उसकी नियुक्ति के समय बनायी गयी सर्विस शीट, व्यक्तिगत पत्रावली न्यायाधिकरण के समक्ष पेश नहीं की गयी है। विपक्षी द्वारा प्रार्थी घीसूलाल से कोई प्रतिपरीक्षा नहीं की गयी है। अतः प्रार्थी द्वारा प्रस्तुत साक्ष्य अकाट्य है।

12. विपक्षी प्रतिनिधि की ओर से यह तर्क दिया गया है कि प्रार्थी द्वारा दिनांक 08.11.76 को पेश साक्षांकन प्रपत्र में अपनी जन्मतिथि 15.04.1947 तथा स्वयं को रा0उ0प्रा0विद्यालय, अलवर गेट, अजमेर से आठवीं कक्षा उत्तीर्ण होना अंकित किया है। उक्त विद्यालय से शैक्षणिक योग्यता की सत्यापन कराने पर प्रार्थी उक्त विद्यालय में अध्ययन नहीं करना तथा आठवीं उत्तीर्ण नहीं होना बताया है। मेरे विनम्र मत में किसी भी नियुक्ति के लिये पहले विज्ञापन प्रकाशित किया जाता है, उसी के उपरांत निर्धारित प्रक्रिया अपनाकर नियुक्ति प्रदान की जाती है। विपक्षी द्वारा विचारणीय प्रकरण में ऐसा कोई विज्ञापन पेश नहीं किया गया है, कि खलासी के पद पर नियुक्ति हेतु कोई विज्ञापन प्रकाशित किया गया हो। विपक्षी द्वारा खलासी के पद हेतु निर्धारित योग्यता आठवीं उत्तीर्ण होना बताया है, परन्तु विपक्षी द्वारा ऐसे कोई सेवानियम पेश नहीं किये हैं, जिनमें यह अंकित हो कि खलासी के पद की निर्धारित योग्यता आठवीं उत्तीर्ण है। अतः विपक्षी द्वारा विज्ञापन, सेवा नियम न्यायाधिकरण के समक्ष पेश नहीं करना विपक्षी के प्रति प्रतिकूल अवधारणा प्रकट करता है।

13. प्रार्थी द्वारा अपने तर्कों में अपनी नियुक्ति कल्चरल स्पोर्ट के आधार पर किया जाना बताया है, परन्तु विपक्षी द्वारा प्रार्थी की न्यायालय के आदेश के बावजूद व्यक्तिगत पत्रावली पेश नहीं की गयी, जिससे यह सिद्ध नहीं हो सकता कि प्रार्थी की नियुक्ति किस कोटे में हुयी। विपक्षी द्वारा न्यायालय आदेश के बावजूद वांछित दस्तावेजात् पेश नहीं करना विपक्षी की ओर प्रतिकूल अवधारणा प्रकट करता है।

14. मेरे विनम्र मत में किसी भी नियुक्ति से पूर्व निर्धारित योग्यता संबंधी प्रमाण पत्रों का सत्यापन करने के उपरांत ही नियुक्ति प्रदान की जाती है। प्रार्थी घीसूलाल को दिनांक 02.07.76 से खलासी के पद पर नियुक्ति दी गयी है और प्रार्थी द्वारा दिनांक 08.11.76 को साक्षांकन प्रपत्र पेश किया गया है, जो नियुक्ति के 04 माह बाद पेश किया गया है। साक्षांकन प्रपत्र के कॉलम संख्या 07 में प्रार्थी की जन्म तिथि दिनांक 15.04.1947 तथा कॉलम संख्या 10 में प्रार्थी की शैक्षणिक योग्यता आठवीं उत्तीर्ण अंकित है। प्रार्थी द्वारा नियुक्ति के समय कोई भी प्रमाण-पत्र पेश नहीं करना तथा माता-पिता के बताये अनुसार जन्म तिथि अंकित कराना बताया गया है। विपक्षी द्वारा भी ऐसा कहीं नहीं कहा गया है कि प्रार्थी ने

फर्जी आठवीं उत्तीर्ण की अंकतालिका नियुक्ति के समय पेश की हो। प्रार्थी द्वारा संपूर्ण जांच में, जवाब तथा बहस में यही कहा गया है, कि वह पढ़ा-लिखा नहीं है, वह केवल हस्ताक्षर करना जानता है। साक्षांकन प्रपत्र भी प्रार्थी द्वारा स्वयं भरकर पेश नहीं किया गया है, ऐसी स्थिति में इस तर्क पर विश्वास नहीं किया जा सकता कि प्रार्थी द्वारा अपनी नियुक्ति के समय अपनी शैक्षणिक योग्यता आठवीं उत्तीर्ण बताया गयी हो। वैसे भी प्रार्थी ने अपनी भर्ती कल्चरल स्पोर्ट कोटे के तहत होना बताया है। विपक्षी द्वारा प्रार्थी की व्यक्तिगत पत्रावली और निर्धारित योग्यता आठवीं उत्तीर्ण होने बाबत कोई सेवानियम पेश किये गये हैं और न ही इस संबंध में कोई मौखिक साक्ष्य विपक्षी की ओर से न्यायाधिकरण के समक्ष पेश की गयी है। अतः विपक्षी प्रतिनिधि की यह आपत्ति स्वीकार की जाने योग्य नहीं है।

15. मेरे विनम्र मत में खलासी के पद हेतु किसी तकनीकी शिक्षा की आवश्यकता नहीं होती है। उक्त पद पर कार्य की प्रकृति को भी कंसीडर करते हुये नियुक्ति प्रदान की जा सकती है। विपक्षी द्वारा प्रार्थी की सेवायें उसकी नियुक्ति दिनांक 02.07.76 से नियमित मानी गयी हैं। प्रार्थी को उसके सेवाकाल में व्यावसायिक परीक्षा उत्तीर्ण करने पर इलेक्ट्रोप्लेटर ग्रेड-I एवं इलेक्ट्रोप्लेटर ग्रेड-II के पद पर पदोन्नत किया गया है। किसी भी पदोन्नति से पूर्व उसके सेवाकाल में कोई प्रतिकूल प्रविष्टि नहीं होने एवं नियमित सेवा होने के उपरांत ही किसी कर्मचारी को पदोन्नति प्रदान की जाती है। प्रार्थी को उसके सेवाकाल में दो बार पदोन्नति प्रदान की गयी है। जिससे यह साबित होता है कि उसकी सेवायें नियमित थीं एवं उसके सेवाकाल में कोई प्रतिकूल प्रविष्टि अंकित नहीं थी।

16. विपक्षी की ओर से प्रस्तुत न्यायिक दृष्टांत (2012) 8 एस सी सी 748 जैनेन्द्र सिंह बनाम स्टेट ऑफ उत्तरप्रदेश में माननीय सर्वोच्च न्यायालय द्वारा प्रतिपादित सिद्धांत अवैध नियुक्ति के संबंध में है, जबकि विचारणीय प्रकरण में प्रार्थी की नियुक्ति नियमित नियुक्ति है। अतः उक्त न्यायिक दृष्टांत हस्तगत प्रकरण के तथ्यों एवं परिस्थितियों से भिन्न होने के कारण हस्तगत प्रकरण में लागू नहीं होता है।

17. विपक्षी द्वारा यह आपत्ति की गयी है कि प्रार्थी श्रमिक की परिभाषा में नहीं आता है और न्यायाधिकरण को रेफरेंस सुनने व निर्णित करने का अधिकार नहीं है। इस संबंध में माननीय उच्च न्यायालय एवं सर्वोच्च न्यायालय द्वारा विभिन्न न्यायिक दृष्टांतों में यह सिद्धांतों प्रतिपादित किया गया है कि न्यायाधिकरण का क्षेत्राधिकार रेफरेंस के विवादित बिन्दु तक ही है और न्यायाधिकरण रेफरेंस से बाहर जाकर निर्णय नहीं दे सकता। अतः न्यायाधिकरण को प्राप्त रेफरेंस में विवादित बिन्दु पर ही अपना निर्णय पारित करना है। अतः विपक्षी प्रतिनिधि की उक्त आपत्ति स्वीकार की जाने योग्य नहीं है।

18. प्रार्थी प्रतिनिधि की ओर से प्रस्तुत न्यायिक दृष्टांतों का मैंने बारीकी से अध्योपांत विनम्रतापूर्वक अवलोकन किया। उपरोक्त सभी दृष्टांतों के तथ्य एवं परिस्थितियों हस्तगत प्रकरण के तथ्यों एवं परिस्थितियों से समानता रखते हैं, अतः उक्त सभी न्यायिक दृष्टांत प्रार्थी के केस में लागू होते हैं। जिनका प्रभाव यथोचित रूप से ऊपर विवेचना में दिया गया है।

19. उपरोक्त विवेचन के फलस्वरूप प्रकरण में निम्न अवार्ड पारित किया जाता है :-

अवार्ड

“प्रार्थी श्री घीसूलाल को विपक्षी रेलवे प्रबंधन द्वारा दिनांक 08.01.88 से सेवापृथक किया जाना अनुचित एवं अवैध है। उक्त सेवापृथक आदेश आपस्त किया जाता है। प्रार्थी श्री घीसूलाल दिनांक 08.01.88 से पुनः

सेवा में आने का अधिकारी है तथा दिनांक 08.01.88 से प्रार्थी की नियमित सेवा मानी जावेगी। चूँकि प्रार्थी घिसूलाल अपनी सेवानिवृत्ति की अधिवार्षिकी आयु पूर्ण कर चुका है, अतः प्रार्थी सभी सेवानिवृत्ति लाभ—परिलाभ प्राप्त करने का अधिकारी है। दिनांक 08.01.88 से सेवानिवृत्ति दिनांक तक सभी वेतन लाभ—परिलाभ नोशनल रूप से प्रार्थी को देय होंगे लेकिन सभी सेवानिवृत्ति लाभ—परिलाभ नगद में देय होंगे।”

हेमन्त कुमार जैन, न्यायाधीश

नई दिल्ली, 30 दिसम्बर, 2014

का.आ. 41.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में औद्योगिक अधिकरण बैंक ऑफ राजस्थान लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के स्थान पर औद्योगिक अधिकरण जयपुर के पंचाट (संदर्भ संख्या 40/91) के शुद्धिकरण पत्र को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.11.2014 प्राप्त हुआ था।

[सं. एल-12012/237/1991-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 30th December, 2014

S.O. 41.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Corrigendum on Award No. (Ref. No. 40/91) published on 25.11.2014. Instead Cent. Govt. Indus. Tribunal-cum-Labour Court, Jaipur it may be read as Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the management of Bank of Rajasthan Ltd and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/237/91-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं० सी.आई.टी. 40/91

रैफरेंस: केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश कमांक एल-12012/237/91-आईआर.(बी.3) दिनांक 13.08.1991

श्री मिट्ठू सिंह चौहान पुत्र श्री सवाई सिंह,
भू0पू0 चतुर्थ श्रेणी कर्मचारी,
गांव कालीन्जर पो0 कालीन्जर, वाया ब्यावर,
जिला-अजमेर, राज. द्वारा श्री कान सिंह राठौड़,
प्लॉट नंबर 858, देवी नगर,
श्याम नगर पोस्ट आफिस के पीछे,
न्यू सांगानेर रोड, सोढ़ाला, जयपुर।

...प्रार्थी

बनाम

महाप्रबंधक,
आई.सी.आई.सी.आई. बैंक लि.,
सरदार पटेल मार्ग,
सी-स्कीम, जयपुर।

...अप्रार्थी

उपस्थित

पीठासीन अधिकारी : श्री हेमन्त कुमार जैन, आर.एच.जे.एस.

प्रार्थी की ओर से : श्री आर.सी. जैन

अप्रार्थी की ओर से : श्री आलोक फतहपुरिया

दिनांक अवार्ड : 18.10.2013

अवार्ड

1. केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली ने उपरोक्त अधिसूचना के जरिये इस आशय का विवाद इस न्यायाधिकरण को अधिनियंत्रण हेतु निर्देशित किया है कि "Whether the action of the management of the Bank of Rajasthan Ltd. Central Office Jaipur in dismissing Sh. Mittu Singh w.e.f. 16.03.90 is legal and justified? If not, to what relief the workman is entitled to?"

2. विवाद जो भेजा गया उसके संबंध में प्रार्थी की ओर से स्टेटमेंट ऑफ क्लेम पेश हुआ कि प्रार्थी की नियुक्ति चतुर्थ श्रेणी कर्मचारी के स्थाई पद पर 283/-रु० माहवारी पर नियोजित किया गया। उसके बाद अन्य आदेशों से प्रार्थी की अवधि समय समय पर बढ़ाई जाती रही। प्रार्थी को मिथ्या तथ्यों पर आधारित एक आरोप पत्र दिनांक 30.08.88 दिया गया। जिसमें जांच अधिकारी द्वारा प्राकृतिक न्याय के सिद्धांतों के विपरीत जांच कार्यवाही पूर्ण कर प्रार्थी पर लगाये गये आरोप को सही माना। प्रार्थी द्वारा की गयी यात्रा के संबंध में सही तथ्य प्रस्तुत करने पर भी उसे रिकार्ड पर नहीं लिया और न ही उनके बयान लिये गये तथा रेलवे टिकटों का सत्यापन कराये बिना रेलवे द्वारा चाही गयी सूचना के संबंध में उसके बयान लिये बिना ही, सूचना को सही मानकर आरोप साबित मान लिया गया। प्रार्थी को अपने बचाव में सुनवाई का अवसर नहीं दिया गया। प्रार्थी द्वारा अपनी सेवामुक्ति के विरुद्ध सक्षम अधिकारी के समक्ष प्रस्तुत अपील भी प्रस्तुत तथ्यों पर गौर किये बना ही निरस्त कर दी गयी। इसके बाद एक शिकायत इस संबंध में सहायक श्रम आयुक्त (केन्द्रीय) को प्रस्तुत की गई जिसपर अप्रार्थी को समझौता वार्ता हेतु आमंत्रित किया गया लेकिन कोई समझौता नहीं होने से उपरोक्त विवाद भेजा गया है। प्रार्थी ने एल.एफ.सी. के बिल के भुगतान के लिये कोई धोखाधड़ी व बेइमानी नहीं की, बल्कि बैंक स्वयं ने जानबूझकर उसे नौकरी से निकालने के लिये पूर्वाग्रह से ग्रसित होकर ऐसा किया है, जो असंवैधानिक है। प्रार्थी के विरुद्ध समस्त कार्यवाही समझौता 1966 की धारा 19 के विपरीत की गयी है। प्रार्थी द्वारा बैंक में करीब 16-17 वर्ष तक बिना किसी शिकायत के सेवा अर्पित की है। अतः प्रार्थी की सेवामुक्ति को अनुचित एवं अवैध तथा शून्य करार दिया जाकर पिछला वेतन सेवाओं तथा समस्त सुविधाओं सहित सेवा में बहाल करने का अवार्ड पारित किया जावे।

3. अप्रार्थी बैंक की ओर से जवाब पेश हुआ। आरंभिक आपत्तियों में बताया कि प्रार्थी की नियुक्ति 10.1.85 से 30.3.85 तक ही की गई थी एवं दिनांक 30.3.85 को ही उसकी सेवा स्वतः समाप्त हो गई। प्रार्थी की ओर से यह विवाद

8 वर्ष बाद लाया गया है जिसका कोई संतोषप्रद कारण नहीं दर्शाया गया है अतः रैफरेंस मात्र इसी आधार पर खारिज होने योग्य है। दूसरा ऐतराज यह रहा है कि प्रार्थी को एक निश्चित अवधि के लिए नियुक्ति दी गई थी, उक्त अवधि के समाप्त होने पर उसकी सेवा स्वतः ही समाप्त हो जाती है अतः धारा 2(00)(बीबी) अधिनियम के अनुसार प्रार्थी का रैफरेंस चलने योग्य नहीं है।

4. मदवार उत्तर प्रस्तुत करते हुए बताया कि प्रार्थी को प्रशिक्षु के रूप में दिनांक 24.07.74 को नियुक्त किया गया था। प्रार्थी को दिनांक 30.08.88 को एक आरोप पत्र दिया गया, जिसमें जांच अधिकारी द्वारा नियमानुसार जांच पूर्ण करने पर उसे दोषी मानकर अनुशासनिक अधिकारी द्वारा उसे व्यक्तिगत सुनवाई का अवसर देते हुये प्रश्नगत दण्डादेश पारित किया गया है, जो सही है। जहां तक प्रार्थी के पूर्व के आचरण का सवाल है, उसे पूर्व में भी बैंक के साथ धोखाधड़ी करने के कारण बर्खास्त किया गया किन्तु अपीलीय अधिकारी ने प्रार्थी के विरुद्ध नरम रुख अपनाते हुये केवल पांच वेतन वृद्धि संचयी प्रभाव से रोकने के दण्ड से दण्डित किया गया था। प्रार्थी के विरुद्ध समझौता 1966 की धारा 19 के विपरीत कोई कार्यवाही नहीं की गयी। जांच अधिकारी द्वारा उसे बचाव व सुनवाई का पूरा अवसर देते हुये प्राकृतिक न्याय के सिद्धांतों के अनुसार जांच पूर्ण कर आरोप साबित माना है। अतः प्रार्थी द्वारा प्रस्तुत क्लेम खारिज किया जावे।

5. न्यायाधिकरण के आदेश दिनांक 14.12.95 द्वारा घरेलू जांच को अशुद्ध व अनुचित घोषित किया गया। साक्ष्य अप्रार्थी बैंक की ओर से श्री भगवत सिंह मेहता एवं श्री के.एन.पारीक के शपथ पत्र पेश हुये, जिनसे प्रार्थी प्रतिनिधि ने जिरह की है। साक्ष्य प्रार्थी में श्रमिक द्वारा स्वयं का शपथ पत्र पेश किया गया, जिससे अप्रार्थी प्रतिनिधि ने जिरह की है।

6. न्यायाधिकरण के आदेश दिनांक 17.12.2012 द्वारा अप्रार्थी दि बैंक ऑफ राजस्थान लि. का आई.सी.आई.सी.आई. बैंक लि. में संविलयन हो जाने के कारण महाप्रबंधक, आई.सी.आई.सी.आई. बैंक लि. को पक्षकार बनाया गया।

7. उभय पक्षों की बहस सुनी गयी। पत्रावली का अवलोकन किया गया।

8. प्रार्थी के विद्वान प्रतिनिधि का तर्क है कि न्यायाधिकरण द्वारा घरेलू जांच को अशुद्ध घोषित किया गया है। विधि का यह सुस्थापित सिद्धांत है कि घरेलू जांच के अनुचित एवं अवैध घोषित किये जाने के पश्चात् घरेलू जांच में प्रस्तुत साक्ष्य को मैटेरियल ऑन रिकार्ड नहीं माना जा सकता तथा ऐसी जांच के दौरान आई साक्ष्य को आरोप सिद्ध होने का आधार नहीं माना जा सकता। अप्रार्थी प्रतिनिधि द्वारा घरेलू जांच में आई साक्ष्य के आधार पर आरोप सिद्ध होना बताया है, लेकिन विपक्षी प्रतिनिधि का तर्क स्वीकार किये जाने योग्य नहीं है। अन्यथा भी घरेलू जांच में दिये गये बयानों से प्रार्थी के विरुद्ध आरोप सिद्ध नहीं होता। प्रार्थी पर लगाये गये आरोप को सिद्ध करने के लिये बैंक की ओर से प्रस्तुत गवाह श्री भगवत सिंह मेहता ने केवल घरेलू जांच के रिकार्ड पेश किया है, जिसे न्यायाधिकरण द्वारा अनुचित एवं अवैध घोषित किया जा चुका है, अतः श्री भगवत सिंह के बयानों का कोई महत्व नहीं है। अप्रार्थी की ओर से प्रस्तुत दूसरे गवाह के. एन. पारीक ने केवल प्रदर्श एम-1 से एम-8 तक के दस्तावेजों को प्रदर्शित किया है। उक्त गवाह ने भी अपने बयानों में ऐसा कोई कथन नहीं किया है कि प्रार्थी व उसके परिवार के सदस्यों ने ब्यावर से उदयपुर तथा जोधपुर से रामदेवरा की यात्रा नहीं की या प्रार्थी ने बैंक से गलत रूप से 310 रु. का भुगतान प्राप्त करने की कोशिश की। प्रार्थी प्रतिनिधि का तर्क है कि विपक्षी प्रतिनिधि की संपूर्ण बहस प्रदर्श एम-4 व प्रदर्श एम-6 पर आधारित है, उक्त दस्तावेज को लिखने वाले

व्यक्तियों को न्यायाधिकरण के समक्ष न तो साक्ष्य में पेश किया गया और न ही प्रार्थी को उनसे जिरह का अवसर दिया गया, इसलिये इनके आधार पर आरोप साबित नहीं माना जा सकता। जहाँ तक प्रार्थी पर बैंक से गलत रूप से 310 रु. के भुगतान प्राप्त करने का आरोप का प्रश्न है, यह आरोप भी साक्ष्य के अभाव में सिद्ध नहीं माना जा सकता। प्रार्थी प्रतिनिधि का कथन है कि द्वितीय श्रेणी का टिकिट यात्रा समाप्त होने पर रेलवे स्टेशन पर देना होता है और यात्रा करने पर एल.एफ.सी. बिल में उसके नम्बर भी अंकित करना आवश्यक नहीं है। संभवतया प्रार्थी को नम्बर अंकित करने को कहा गया हो और उसने अपनी याददाश्त के आधे पर नम्बर लिख दिये हो। लेकिन इस कारण से आरोप सिद्ध नहीं माना जा सकता। प्रार्थी पर लॉस ऑफ कानफिडेंस का कोई आरोप नहीं है। प्रार्थी को पूर्व में दिये गये दण्ड का इस जांच में कोई प्रभाव नहीं है। अतः प्रार्थी पर लगाया गया आरोप प्रस्तुत साक्ष्य से साबित नहीं होता है। अतः सेवामुक्ति आदेश अपास्त कर प्रार्थी को पिछले पूर्ण वेतन व अन्य सभी परिलाभों सहित सेवा में बहाल किया जावे। प्रार्थी प्रतिनिधि द्वारा अपने तर्कों के समर्थन में निम्न न्यायिक दृष्टांत पेश किये गये हैं :-

01. 1999 (81) एफ एल आर नीता कलिश बनाम पी.ओ. लेबरकोर्ट व अन्य।
02. 1981 डबल्यू एल एन (यू सी) 457 (राज. डी.बी.) अमशतलाल बनाम स्टेट ऑफ राज.
03. 1971 (23) एफ एल आर 273 बरेली इलेक्ट्रिसिटी सप्लाई कॉ. लि. बनाम श्रमिक व अन्य
04. 2003(8) एससीसी 745 नर्बदा देवी गुप्ता बनाम विरेन्द्र कुमार जयसवाल व अन्य।
05. 2009(2) एससीसी 570 रूप सिंह नेगी बनाम पंजाब नेशनल बैंक व अन्य।
06. 1970 II एल एल जे-1 (एस सी) ट्रेवनकोर टाइटेनियम प्रो. लि. बनाम श्रमिक।

9. अप्रार्थी प्रतिनिधि ने अपनी बहस में बताया कि प्रार्थी द्वारा एल.एफ.सी. बिल प्रदर्श एम-1 1470 रु. के भुगतान हेतु पेश किया गया। जिसमें दिनांक 27.01.87 को ब्यावर से उदयपुर एवं दिनांक 29.01.87 को जोधपुर से रामदेवरा की यात्रा करना बताया है, परन्तु उक्त यात्रा के जो टिकिट नंबर प्रार्थी द्वारा बताये गये हैं, वे न तो ब्यावर से जारी हुये हैं और न ही जोधपुर से जारी हुये हैं, यह तथ्य रेलवे प्रशासन की रिपोर्ट प्रदर्श एम-4 एवं एम-6 से साबित होता है। प्रार्थी पर लगाये गये आरोप को सिद्ध करने हेतु श्री कमल नयन एवं भगवत सिंह मेहता को पेश किया गया है, जिनकी साक्ष्य से प्रार्थी पर लगाये गये आरोप सिद्ध होता है। प्रार्थी ने अपनी प्रतिपरीक्षा में भी प्रदर्श एम-1 बैंक को देना स्वीकार किया गया है। प्रार्थी को पूर्व में भी बैंक के साथ धोखाधड़ी करने के आरोप में सेवामुक्ति किया जा चुका है, जिसमें अपील करने पर अपीलीय अधिकारी द्वारा नरम रुख अपनाकर प्रार्थी को पांच वार्षिक वेतन वृद्धियाँ संचयी प्रभाव से रोकें जाने का दण्ड दिया है। प्रार्थी द्वारा ढाई वर्ष के बच्चे का भी पूरा टिकिट लेना बताया है, जबकि ढाई वर्ष के बच्चे का कोई टिकिट नहीं लगता है। प्रार्थी द्वारा दिनांक 29.01.87 को रात 10.30 बजे उदयपुर से रवाना होकर दिनांक 30.01.87 को रामदेवरा सुबह पहुंचना बताया है और दिनांक 30.01.87 को रामदेवरा से अजमेर के लिये रवाना होना बताया है, जो कि संभव नहीं है। प्रार्थी द्वारा प्रतिपरीक्षा में पिछले दण्ड को भी स्वीकार किया गया है। अतः प्रार्थी पर लगाया गया आरोप पूर्णतया सिद्ध होता है।

अतः क्लेम खारिज किया जावे। अप्रार्थी प्रतिनिधि द्वारा अपने तर्कों के समर्थन में निम्न न्यायिक दृष्टांत पेश किये गये हैं :-

01. 1998 एल एल आर 861 (एस.सी.) इंडियन काउंसिल ऑफ मैडीकल रिसर्च व अन्य बनाम डॉ. अनिल कुमार घोष व अन्य।
02. 2004(104) एफजेआर (एस.सी.) 715 इंजीनियरिंग लघु उद्योग एम्प्लॉयी यूनियन बनाम जज लेबर कोर्ट व अन्य।
- 03 1998 डबल्यू एल सी (यू.सी.) पेज 703 आरएसआरटीसी बनाम जज इन्डस्ट्रियल ट्रिब्युनल व अन्य।

10. उभय पक्षों के तर्कों का मनन किया एवं प्रस्तुत न्यायिक दृष्टांतों का अद्योपांत बारीकी से ससम्मान अध्ययन व अवलोकन किया।

11. पत्रावली के अवलोकन से प्रकट होता है कि प्रार्थी को एक आरोप पत्र दिनांक 30.08.88 को इस आशय का जारी किया गया कि आप द्वारा प्रस्तुत एल. एफ.सी. बिल में दिनांक 27.01.87 को टिकिट संख्या 81792 से 81798 के द्वारा ब्यावर से उदयपुर एवं दिनांक 29.01.87 को टिकिट संख्या 08546 से 08551 द्वारा जोधपुर से रामदेवरा रेलवे द्वारा द्वितीय श्रेणी में आप एवं आपके परिवारजन द्वारा यात्रा करना एवं कमशः रु. 175/- एवं 126/- खर्च होना दर्शाया, जिनकी जांच कराने पर उपरोक्त नम्बरों के टिकिटों द्वारा यात्रा नहीं करने एवं बैंक से गलत रूप से 301/- रु. का भुगतान प्राप्त करने का आरोप लगाया गया। उक्त आरोप के संबंध में न्यायाधिकरण द्वारा घरेलू जांच को अशुद्ध घोषित किया गया है। अतः अब न्यायाधिकरण को यही देखना है कि न्यायाधिकरण में प्रस्तुत साक्ष्य से प्रार्थी पर आरोप साबित होता है अथवा नहीं। अप्रार्थी बैंक की ओर से श्री भगवत सिंह एवं के.एन. पारीक द्वारा न्यायाधिकरण के समक्ष साक्ष्य पेश की गयी। गवाह के.एन. पारीक ने अपने बयानों में मिठटू सिंह द्वारा दिनांक 23.04.87 को एल.एफ.सी. बिल प्रदर्श एम-1 का क्लेम प्रस्तुत करना बताया है, जिसके साथ प्रार्थी द्वारा एक स्टेटमेंट व किराये की रसीदें व बस की टिकिट इत्यादि पेश किये गये। इस तथ्य को प्रार्थी ने अपनी प्रतिपरीक्षा में भी स्वीकार किया है। उक्त गवाह द्वारा प्रार्थी द्वारा बतायी टिकिट नंबरों की सत्यता की जांच करने के लिये दिनांक 19.08.87 को रेलवे मास्टर को एक पत्र लिखा गया, जो प्रदर्श एम-2 है, जिस पर गवाह श्री पारीक ने अपने हस्ताक्षर होना बताया है। जिसका जवाब प्रदर्श एम-4 है। इसी प्रकार जोधपुर से रामदेवरा की यात्रा की टिकिट संख्या की सत्यता की जांच के लिये एक पत्र गवाह ने अपने हस्ताक्षर से जारी करना बताया है, जो प्रदर्श एम-5 है, जिसका जवाब प्रदर्श एम-6 है। उक्त दस्तावेज के अवलोकन से यह प्रतीत होता है कि प्रार्थी द्वारा प्रदर्श एम-1 एल.एफ.सी. बिल क्लेम बाबत पेश किया गया है, जिसमें प्रार्थी द्वारा ब्यावर से उदयपुर की यात्रा टिकिट नंबर 81792 से 81798 के जरिये करना बताया। उक्त टिकिटों के नंबरों की सत्यता की जांच कराने पर प्रदर्श एम-4 द्वारा स्टेशन सुप्रीटेंडेंट, ब्यावर द्वारा उक्त टिकिटें दिनांक 27.01.87 को ब्यावर से द्वितीय श्रेणी की जारी नहीं होना बताया। इसी प्रकार उत्तर रेलवे प्रबंधन द्वारा भी प्रदर्श 06 द्वारा प्रार्थी द्वारा प्रस्तुत जोधपुर से रामदेवरा की टिकिट संख्या 08546 से 08551 जोधपुर से जारी नहीं होना बताया है। अतः मेरे विनम्र मत में प्रार्थी द्वारा उक्त फर्जी टिकिट नंबर बताकर गलत तरीके से बैंक से भुगतान उठाने का प्रयास किया है। प्रार्थी प्रतिनिधि का यह तर्क रहा है कि उक्त प्रदर्श एम-4 एवं प्रदर्श एम-6 की सत्यता को साबित करने हेतु उक्त दस्तावेजात् जारी करने वाले को साक्ष्य में पेश नहीं किया गया है और न ही उनसे जिरह का अवसर दिया गया है, इस संबंध में प्रस्तुत उक्त दोनों ही दस्तावेजात् रेलवे प्रबंधन द्वारा जारी हुये हैं, जिन पर रेलवे की मुद्रा एवं हस्ताक्षर दोनों अंकित

है। उक्त दस्तावेजात् न्यायाधिकरण के समक्ष प्रदर्शित हुये हैं और प्रदर्शित दस्तावेज की सत्यता पर संदेह नहीं किया जा सकता। अतः प्रार्थी प्रतिनिधि का उक्त तर्क स्वीकार किये जाने योग्य नहीं है। प्रार्थी द्वारा प्रस्तुत क्लेम प्रदर्श एम-1 में दिनांक 29.01.87 को उदयपुर से जोधपुर की यात्रा रेल द्वारा करना बताया है, जिसमें परिवार के 07 जनों की टिकिट राशि 301 रु. के भुगतान हेतु क्लेम किया है, जबकि प्रार्थी के परिवार के 07 जनों में से एक बालक ढाई वर्ष का है और ढाई वर्ष के बच्चे का रेल अथवा बस में कहीं भी कोई टिकिट नहीं लगता है। अतः मेरे विनम्र मत में प्रार्थी द्वारा गलत तरीके से एल.एफ.सी. बिल प्रस्तुत कर 301/-रु. का भुगतान प्रार्थी द्वारा उठाना प्रमाणित होता है।

12. प्रार्थी का पूर्व आचरण भी संतोषप्रद नहीं रहा है। प्रार्थी को पूर्व में भी क्षेत्रीय कार्यालय के पत्र दिनांक 20.06.86 द्वारा उसके विरुद्ध घोखाधड़ी के आरोप में बैंक की सेवाओं से पृथक किया गया था, परन्तु अपील अधिकारी द्वारा प्रार्थी की अल्प आयु एवं पारिवारिक उत्तरदायित्व को देखते हुये एवं मानवीय आधार पर विचार करके प्रार्थी को पांच वार्षिक वेतन वृद्धियां संचयी प्रभाव से रोकने के दण्ड से दण्डित किया जा चुका है। अतः बैंक के प्रबंधन द्वारा कर्मचारी में लोस ऑफ कॉन्फिडेंस हो जाना भी प्रकट होता है। कर्मचारी के सेवापृथक आदेश में भी इस तथ्य का उल्लेख है।

13. उभय पक्षों की ओर से प्रस्तुत न्यायिक दृष्टांतों का मैंने बारीकी से अद्योपांत विनम्रतापूर्वक अवलोकन किया। प्रार्थी प्रतिनिधि द्वारा प्रस्तुत सभी दृष्टांतों के तथ्य एवं परिस्थितियों हस्तगत प्रकरण के तथ्यों एवं परिस्थितियों से भारी भिन्नता रखते हैं, अतः उक्त सभी न्यायिक दृष्टांत प्रार्थी श्रमिक के केस में लागू नहीं होते हैं।

14. उपरोक्त विवेचन के फलस्वरूप प्रार्थी का क्लेम स्वीकार होने योग्य नहीं है अतः भारत सरकार द्वारा भेजे गये रैफरेंस का उत्तर निम्न प्रकार दिया जाता है:

“अप्रार्थी बैंक प्रबन्धन द्वारा श्री मिठटू सिंह, च0 श्रे0 कर्मचारी को दिनांक 16.03.90 से समाप्त किये जाने की कार्यवाही उचित एवं वैध है। प्रार्थी किसी अनुतोष का अधिकारी नहीं है।”

15. अवार्ड आज दिनांक 18.10.2013 को खुले न्यायालय में लिखाया जाकर सुनाया गया जो केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे।

हेमन्त कुमार जैन, न्यायाधीश

नई दिल्ली, 30 दिसम्बर, 2014

का.आ. 42.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में औद्योगिक अधिकरण बैंक भीलवारा अजमेर क्षेत्रीय ग्रामीण बैंक के प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जयपुर के स्थान पर औद्योगिक अधिकरण जयपुर, पंचाट (संदर्भ संख्या 05/1992) के शुद्धिकरण पत्र को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.11.2014 प्राप्त हुआ था 1

[सं. एल-12012/141/1990-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 30th December, 2014

S.O. 42.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Corrigendum on Award

No. (Ref. 05/1992) published on 25.11.2014. Instead Cent.Govt.Indus.Tribunal-cum-Labour Court, Jaipur it may be read as Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the management of Bilwara Ajmer Kshetriya Gramin Bank and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/141/1990-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं० सी.आई.टी. 05/1992

रैफरेंस: केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश कमांक एल-12012/141/1990-आई.आर. (बी.-I) दिनांक 23.01.1992

श्री एम. एल. कराडिया मार्फत जनरल सीकेटरी,
ग्रामीण बैंक एम्प्लॉईज यूनियन,
37, तबेला, गुलाब पथ, चौमू हाउस, सी-स्कीम,
जयपुर।

...प्रार्थी

बनाम

अध्यक्ष,
भीलवाड़ा अजमेर क्षेत्रीय ग्रामीण बैंक,
सुभाष नगर, भीलवाड़ा।

...अप्रार्थी

उपस्थित

पीठासीन अधिकारी: श्री हेमन्त कुमार जैन, आर.एच.जे.एस.

प्रार्थी की ओर से : श्री आर.सी. जैन

अप्रार्थी की ओर से : श्री सुरेन्द्र सिंह

दिनांक अवार्ड : 10.04.2014

अवार्ड

1. भारत सरकार की उपरोक्त अधिसूचना के जरिये निम्न अनुसूची का विवाद “Whether Shri M.L. Karadia, officer of the Bilwara Ajmer Kshetriya Gramin Bank is a workman of the bank as defined in the Industrial Dispute Act 1947? If so, whether the action of the bank management in extending the period of probation of Shri M.L. Karadia was Justified? If not, to what relief Shri Karadia is entitled to?” अधिनिर्णय हेतु इस अधिकरण को प्राप्त हुआ है।

2. रैफरेंस प्राप्त होने के बाद दर्ज रजिस्टर किया जाकर प्रार्थी को नोटिस जारी किये गये कि वे अपना स्टेटमेंट ऑफ डिमाण्ड पेश करें। प्रार्थी यूनियन की ओर से श्री आर.सी. जैन ने स्टेटमेंट ऑफ क्लेम पेश किया तथा पत्रावली जवाब स्टेटमेंट ऑफ क्लेम हेतु लंबित थी। इस प्रक्रम पर दिनांक 10.04.2014 को उभय

पक्षों ने जाहिर किया कि उभय पक्षों के बीच राजीनामा हो गया है अतः इस प्रकरण को वे चलाना नहीं चाहते हैं।

4. चूंकि श्रमिक एवं प्रबंधन के बीच राजीनामा हो चुका है और श्रमिक की प्रकरण को आगे चलाने में रुचि नहीं है। अतः प्रकरण में निम्न अवार्ड पारित किया जाता है :-

अवार्ड

“प्रार्थी श्री एम.एल. कराडिया एवं प्रबंधन के बीच राजीनामा हो जाने एवं प्राथी प्रतिनिधि द्वारा प्रकरण को आगे चलाने में रुचि नहीं रखने के कारण प्रार्थी श्री एम.एल. कराडिया इस रैफरेंस के जरिये कोई राहत पाने का अधिकारी नहीं है।”

हेमन्त कुमार जैन, न्यायाधीश

नई दिल्ली, 30 दिसम्बर, 2014

का.आ. 43.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में औद्योगिक अधिकरण उत्तर पूर्व रेलवे प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जयपुर के स्थान पर औद्योगिक अधिकरण जयपुर पंचाट (संदर्भ संख्या 5/99) के शुद्धिकरण पत्र को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.11.2014 प्राप्त हुआ था।

[सं. एल-41011/50/1995-आईआर (बी-I)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 30th December, 2014

S.O. 43.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Corrigendum on Award No. (Ref.5/99) published on 25.11.2014. Instead Cent.Govt.Indus.Tribunal-cum-Labour Court, Jaipur it may be read as Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the management of North West Railway and their workmen, received by the Central Government on 18/11/2014.

[No. L-41011/50/1995-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं० सी.आई.टी. 5/1999

रैफरेंस: केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश कमांक एल-41011/50/95-आई.आर.(बी.1) दिनांक 12.03.1997

महामंत्री,
कैजुअल लेबर यूनियन जरिये शिव अवतार सिंह,
डागा स्कूल के पास,
बीकानेर (कर्मचारी श्री रामचन्द्र व अन्य)

...प्रार्थी

बनाम

1. महाप्रबंधक, उत्तर पश्चिम रेलवे मुख्यालय, जयपुर।
2. मण्डल कार्मिक अधिकारी, पश्चिमी रेलवे, बीकानेर।
3. मण्डल अधीक्षण अभियंता, उत्तर पश्चिम रेलवे, बीकानेर।
4. सहायक अभियन्ता द्वितीय, उत्तर पश्चिम रेलवे, हनुमानगढ़ जंक्शन।
5. रेल पथ निरीक्षक, उत्तर पश्चिम रेलवे, ऐलनाबाद।
6. रेल पथ निरीक्षक, उत्तर पश्चिम रेलवे, जैतसर, जिला गंगानगर।
7. रेल पथ निरीक्षक, उत्तर पश्चिम रेलवे, श्रीगंगानगर।

...अप्रार्थीगण

उपस्थित

पीटासीन अधिकारी: श्री हेमन्त कुमार जैन, आर.एच.जे.एस.

प्रार्थी की ओर से : श्री वी. के. माथुर

अप्रार्थी की ओर से : श्री बलविन्द्र सिंह बराड़

दिनांक अवार्ड : 10.10.2013

अवार्ड

1. भारत सरकार के श्रम मंत्रालय की आज्ञा क्रमांक 41011/50/95 दिनांक 12.03.1997 से निम्न अनुसूची का विवाद “Whether the 18 workmen whose names, date of empyment and the date of termination mentioned in the list annexed are entitled for reinstatement with back wages? If not, to what relief the workmen are entitled to and from the date” अधिनिर्णय हेतु इस अधिकरण को प्राप्त हुआ है।

2. प्रार्थी श्रमिक की ओर से स्टेटमेंट ऑफ क्लेम पेश कर कथन किया कि सभी श्रमिकगणों द्वारा अप्रार्थी संस्थान में एक वर्ष में 240 दिन से अधिक कार्य किया गया है। सभी श्रमिकगणों को उत्तर रेलवे ने अपने मौखिक आदेश से समाप्त कर मस्टरोल से उनके नाम काट दिये। श्रमिकगणों की सेवामुक्ति से पूर्व उन्हें एक माह का नोटिस अथवा नोटिस वेतन एवं छटनी मुआवजा आदि नहीं दिया गया। इस प्रकार अप्रार्थी द्वारा 25 एफ, 25 जी एवं 25 एच औद्योगिक विवाद अधिनियम 1947 की पालना नहीं की गयी है। अप्रार्थी द्वारा अनफेयर लेबर प्रेक्टिस की नीति अपनाते हुये उनकी सेवा अवधि को बार-बार अनाधिकृत रूप से बढ़ाया गया है। अतः सभी श्रमिकगणों को पुनः सेवा में बहाल कर सभी लाभ-परिलाभ दिलाये जावें।

3. अप्रार्थीगण की ओर से स्टेटमेंट ऑफ क्लेम का जवाब पेश कर कथन किया कि श्रमिकगण द्वारा लगातार 240 दिन से अधिक कार्य किया हो, ऐसा कोई प्रलेख प्रस्तुत नहीं किया है। श्रमिकगणों को दैनिक वेतन भोगी के रूप में निर्धारित समय के लिये ट्रेक पेट्रोलिंग के कार्य हेतु रखा गया था। श्रमिकों की सेवा अवधि दिनांक 05.07.86 को स्वतः ही समाप्त हो चुकी है। श्रमिकगणों पर धारा औद्योगिक विवाद अधिनियम, 1947 के प्रावधान लागू नहीं होते हैं। अतः प्रार्थीगण का क्लेम खारिज किया जावे।

4. दिनांक 28.01.2005 को न्यायाधिकरण द्वारा एक अवार्ड पारित कर यह अभिनिर्धारित किया गया :-

01. श्रमिक भंवर सिंह पुत्र मेधाराम व बदर सिंह पुत्र दुर्जन सिंह का कोई क्लेम पेश नहीं होने के कारण इन दोनों के संबंध में नो डिस्पुट अवार्ड पारित किया जाता है।

02. भंवर सिंह पुत्र रूप सिंह एवं जेवर सिंह पुत्र दुर्जन सिंह ने क्लेम पेश किया है, किन्तु उनका कोई विवाद पेश नहीं हुआ है, अतः इनके संबंध में कोई अवार्ड पारित नहीं किया जा सकता।

03. हुसेन अब्बास ने कोई साक्ष्य पेश नहीं की है। दयाराम पुत्र मुंशीराम, केसराराम पुत्र चितराराम, सुरेश कुमार पुत्र राम कुमार व शम्भूदयाल पुत्र जोधाराम ने अप्रार्थी संस्थान में 240 दिन कार्य नहीं किया है। अतः वे कोई राहत पाने के अधिकारी नहीं हैं।

04. शेष सभी श्रमिकगण सर्वश्री रामचन्द्र पुत्र कालूराम, रामनरेश पुत्र प्रभूदयाल, रामचन्द्र पुत्र श्यामलाल, रमेश कुमार पुत्र रामकिशन, रामकुमार पुत्र सीताराम, जवाहर लाल पुत्र बीरबल, रामदुलारा पुत्र बाबूराम, रामधनी पुत्र माताफेयर, रामजस पुत्र रामसमझ, घनश्याम पुत्र भीखू प्रसाद व बोदू खां पुत्र सुल्तान खां कुल 11 श्रमिकों की सेवामुक्ति अनुचित व अवैध है, जिसे अपास्त किया जाता है और ये श्रमिकगण अपने पिछले समस्त वेतन एवं अन्य सभी लाभ सहित पुनः सेवा में नियोजित होने के अधिकारी हैं।

05. इसके खिलाफ रेलवे प्रशासन ने माननीय उच्च न्यायालय में रिट याचिका पेश की गयी। जिसमें मात्र 07 वर्षों की देरी जो प्रार्थीगण/श्रमिकगण के द्वारा की गयी थी, के आधार माननीय उच्च न्यायालय ने भी इसी बिन्दु पर मामले को रिमांड किया है कि 07 वर्ष की देरी जो हुयी है, उसका इस अधिकरण द्वारा, जो अनुतोष प्रदान किया गया है, उस पर क्या प्रभाव पड़ेगा।

06. उक्त आदेश के खिलाफ माननीय उच्च न्यायालय की खण्डपीठ के समक्ष स्पेशल अपील पेश की गयी, जो खारिज की गयी और माननीय उच्च न्यायालय की एकलपीठ द्वारा पारित निर्णय की पुष्टि की गयी।

07. मेरे विनम्र मत में अधिसंख्यक श्रमिकगण को दिनांक 05.07.86 को सेवा से निष्कासित किया गया है। सभी श्रमिकगण अस्थायी श्रमिक थे। किसी भी श्रमिक को नियुक्ति पत्र देकर स्थायी पद पर नियुक्त नहीं किया गया। ऐसी दशा में इस अधिकरण द्वारा पारित निर्णय दिनांक 28.01.05 को जो निष्कर्ष निकाला गया है, न तो उसे चैलेंज किया गया है और न ही माननीय एकलपीठ द्वारा उस निष्कर्ष बाबत पुनर्विवेचना करने का निर्देश प्रदान किया गया है। अतः हमारे समक्ष अब केवल इतना मुद्दा रह गया है कि जिन 11 श्रमिकों को पिछले बकाया वेतन सहित एवं लाभ-परिलाभ सहित पुनः सेवा में लिये जाने का जो आदेश दिया गया है, उस अनुतोष को क्या समाप्त किया जा सकता है या उस अनुतोष में कोई संशोधन किया जा सकता है। इस सीमा तक ही दोनों पक्षों के तर्क सुनकर निर्णय पारित किया जाना है।

08. इस संबंध में प्रार्थीगण/श्रमिकगण के विद्वान अधिवक्ता ने तर्क पेश किया कि न्यायाधिकरण द्वारा दिनांक 28.01.05 को श्रमिकगण के पक्ष में अवार्ड पारित

किया गया है। दिनांक 05.07.86 को श्रमिकगण को सेवापृथक किया गया है, जबकि प्रत्येक श्रमिकगण द्वारा 240 दिन से अधिक कार्य किया गया है। अप्रार्थी द्वारा श्रमिकगण को रेल पथ के रख-रखाव के कार्य के लिये नियुक्त किया गया था, जो स्थाई प्रकृति का कार्य है। श्रमिकगण द्वारा 1983 से 05.07.86 तक लगातार काम किया गया है। प्रार्थीगण के विद्वान प्रतिनिधि का तर्क है कि श्रमिकगण ने जानबूझकर विवाद देरी से पेश नहीं किया बल्कि दिनांक 04.07.92 को श्रमिकगण से कनिष्ठ श्रमिकों को स्क्रीनिंग के लिये बुलाकर उनको नियुक्ति दे दी गयी और श्रमिकगण को कोई नियुक्ति नहीं दी गयी। जिस पर दिनांक 30.10.92 को श्रमिकगण द्वारा विवाद पेश कर दिया गया। अतः प्रार्थीगण द्वारा विवाद जानबूझकर देरी से पेश नहीं किया गया है। अतः श्रमिकगण पुनः सेवा में नियोजित होने एवं समस्त पिछला लाभ-परिलाभ प्राप्त करने के अधिकारी है। प्रार्थीगण के विद्वान अधिवक्ता द्वारा अपने तर्कों के समर्थन में निम्न न्यायिक दृष्टांत पेश किये गये हैं:-

01. 2008-आई-एलएलजे 894 (एससी) स्टेट बैंक ऑफ इण्डिया व अन्य बनाम कृष्णा ग्रामीण बैंक एम्पलॉयज यूनियन व अन्य।
 02. ए.आई.आर. 1999 सुप्रीम कोर्ट 1351 अजायब सिंह बनाम श्रीहिंद कॉर्पोरेटिव मार्केटिंग कम प्रोसेसिंग सर्विस सोसायटी लि.
 03. ए.आई.आर. 2003 एस.सी. 3553 एस.एम. निलाजकर बनाम टेलीकॉम डिस्ट्रिक्ट मैनेजर, कर्नाटका।
 04. (2010) 1 एससीसी 47 गवर्नमेंट ऑफ गुजरात बनाम भैखुभाई मेघाजीभाई छावदा।
 05. 2008 (116) एफएलआर 366 एच.एल.आर. एण्ड डी. कॉ. लि. बनाम निर्मल कुमार (एस.सी.)
09. अप्रार्थी के विद्वान अधिवक्ता का तर्क है कि माननीय न्यायाधिकरण द्वारा 07 वर्ष की छिले के आधार पर प्रकरण को रिमांड किया है। श्रमिकगण दैनिक वेतन भोगी कर्मचारी थे, जिन्हें एक स्पेशल कार्य के लिये रखा गया था, जो समाप्त हो जाने पर उन्हें हटा दिया गया। श्रमिकगण को कोई नियुक्ति आदेश जारी नहीं किया और न ही उनको सेवा से हटाने के संबंध में कोई आदेश अप्रार्थी की ओर से जारी किया गया है। अप्रार्थी द्वारा कोई वरिष्ठता सूची तैयार नहीं की गयी। श्रमिकगण पर औद्योगिक विवाद अधिनियम 1947 के प्रावधान लागू नहीं होते हैं। अतः क्लेम खारिज किया जावे। अप्रार्थी के विद्वान अधिवक्ता द्वारा अपने तर्कों के समर्थन में निम्न न्यायिक दृष्टांत पेश किये गये हैं :-

01. 2002 (1) डबल्यू एल सी राज. 501 डिवीजनल फोरेस्ट आफिसर बनाम रघुवीर।
02. 1997 (2) डीएनजे राज. 670 इंडियन नेशनल बैंक एम्पलॉयज बनाम सेंट्रल इन्डस्ट्रियल ट्रिब्युनल।
03. 2006 (4) एससीसी 1 स्टेट ऑफ कर्नाटका बनाम उमा देवी।
04. 2010(III) डी.एन.जे. (एस.सी.) 1019 सीनियर सुप्रीटेंडेंट टेलीग्राफ (ट्रेफिक) बनाम संतोष कुमार
05. 2009 (15) एससीसी 327 जगवीर सिंह बनाम हरियाणा स्टेट एग्रीकल्चर।

06. एस.बी. सी.डबल्यू. नंबर 281/2012 किशन व अन्य बनाम जज लेबर कोर्ट संख्या 02 में निर्णय दिनांक 08.01.2012 ।

07. 2001 (1) डबल्यू एलसी राज. 592 रामगोपाल सैनी बनाम जज लेबर कोर्ट ।

10. उभय पक्षों की बहस सुनी गयी तथा उभय पक्ष की ओर से प्रस्तुत न्यायिक दृष्टांतों का बारीकी से अधोपांत विनम्रतापूर्वक अवलोकन किया गया।

11. माननीय सर्वोच्च न्यायालय द्वारा न्यायिक दृष्टांत 2010(III) डी.एन.जे. (एस.सी.) 1019 सीनियर सुप्रीटेंडेंट टेलीग्राफ (ट्रेफिक) बनाम संतोष कुमार तथा एस.बी. सी.डबल्यू. नंबर 281/2012 किशन व अन्य बनाम जज लेबर कोर्ट संख्या 02 में निर्णय दिनांक 08.01.2012 में माननीय उच्च न्यायालय द्वारा अभिनिर्धारित किया गया है कि इस तरह के दैनिक वेतन भोगी श्रमिकगण जिन्होंने 1-2 वर्ष ही कार्य किया हो तो उनको सेवा में वापिस लिये जाने का आदेश तथा बकाया वेतन भत्तों के दिलाये जाने के आदेश को उचित नहीं माना है, बल्कि ऐसे मामलों में श्रमिकगणों को एकमुश्त क्षतिपूर्ति की राशि दिया जाना उचित माना है। माननीय सर्वोच्च न्यायालय तथा माननीय उच्च न्यायालय के नवीनतम निष्कर्षों को मद्देनजर रखते हुये इन 11 श्रमिकगणों को पिछला वेतन एवं अन्य सभी लाभ दिया जाना तथा सेवा में पुनः नियोजित करना उचित नहीं समझता हूँ। निष्कासन के 07 वर्ष बाद यह दैनिक वेतन भोगी श्रमिकगण न्यायिक प्रक्रिया हेतु आये हैं, यह देरी इनके लिये घातक है। उक्त दोनों न्यायिक दृष्टांतों के प्रकाश में प्रत्येक प्रार्थीगण/श्रमिकगण को पचास-पचास हजार रुपये क्षतिपूर्ति राशि के रूप में दिये जाने से न्याय के उद्देश्य की पूर्ति हो जायेगी। 2010(III) डी.एन.जे. (एस.सी.) 1019 सीनियर सुप्रीटेंडेंट टेलीग्राफ (ट्रेफिक) बनाम संतोष कुमार के पैरा संख्या 08 में इस बारे में महत्वपूर्ण दिशा-निर्देश प्रदान करता है। इसी तरह एस.बी. सी. डबल्यू. नंबर 281/2012 किशन व अन्य बनाम जज लेबर कोर्ट संख्या 02 में निर्णय दिनांक 08.01.2012 के अन्तिम दो पैराग्राफ में भी इस बारे में मार्गदर्शन प्रदान करते हैं। लिहाजा इन नवीनतम न्यायिक दृष्टांतों में प्रदान किये गये दिशा-निर्देशों के मुताबिक प्रत्येक श्रमिक को केवल पचास-पचास हजार रुपये क्षतिपूर्ति राशि अदा कर देने से न्याय के उद्देश्य की पूर्ति हो जायेगी। प्रार्थीगण के स्तर पर निष्कासन के बाद 07 वर्षों तक कोई कार्यवाही नहीं की गयी और इस देरी का कोई संतोषजनक कारण भी पेश नहीं किया गया है। अतः यह देरी क्षम्य नहीं है। इस 07 वर्ष की देरी हो जाने के कारण श्रमिकगण सेवा में पुनर्नियोजित होने एवं पिछला लाभ-परिलाभ प्राप्त करने के अधिकारी नहीं हैं।

12. प्रार्थी प्रतिनिधि की ओर से प्रस्तुत न्यायिक दृष्टांतों का मैंने बारीकी से अधोपांत विनम्रतापूर्वक अवलोकन किया। उपरोक्त सभी दृष्टांतों के तथ्य एवं परिस्थितियाँ हस्तगत प्रकरण के तथ्यों एवं परिस्थितियों से भारी भिन्नता रखते हैं, अतः उक्त सभी न्यायिक दृष्टांत प्रार्थीगण/श्रमिकगण के केस में लागू नहीं होते हैं। अप्रार्थी की ओर से प्रस्तुत न्यायिक दृष्टांतों में प्रतिपादित सिद्धांतों में दिये गये दिशा-निर्देश हस्तगत प्रकरण में लागू होते हैं, जिनका प्रभाव ऊपर विवेचना में दिया गया है।

13. उपरोक्त विवेचन के फलस्वरूप प्रकरण में निम्न अवार्ड पारित किया जाता है :-

01. श्रमिक भंवर सिंह पुत्र मेधाराम व बदर सिंह पुत्र दुर्जन सिंह का कोई क्लेम पेश नहीं होने के कारण इन दोनों के संबंध में नो डिस्पुट अवार्ड पारित किया जाता है।

02. भंवर सिंह पुत्र रूप सिंह एवं जेबर सिंह पुत्र दुर्जन सिंह ने क्लेम पेश किया है, किन्तु उनका कोई विवाद पेश नहीं हुआ है, अतः इनके संबंध में कोई अवार्ड पारित नहीं किया जा सकता।
03. हुसेन अब्बास ने कोई साक्ष्य पेश नहीं की है। दयाराम पुत्र मुंशीराम, केसरा राम पुत्र चितरा राम, सुरेश कुमार पुत्र राम कुमार व शम्भू दयाल पुत्र जोधाराम ने अप्रार्थी संस्थान में 240 दिन कार्य नहीं किया है। अतः वे कोई राहत पाने के अधिकारी नहीं हैं।
04. शेष सभी श्रमिकगण सर्वश्री रामचन्द्र पुत्र कालूराम, राम नरेश पुत्र प्रभूदयाल, रामचन्द्रपुत्र श्यामलाल, रमेश कुमार पुत्र रामकिशन, राम

कुमार पुत्र सीताराम, जवाहर लाल पुत्र बीरबल, रामदुलारा पुत्र बाबू राम, रामधनी पुत्र माताफेयर, रामजस पुत्र रामसमझ, घनश्याम पुत्र भीखू प्रसाद व बोदू खां पुत्र सुल्तान खां कुल 11 श्रमिकों की सेवामुक्ति उचित व अवैद्य है, श्रमिकगण इस 07 वर्ष की देरी हो जाने के कारण श्रमिकगण पुनः नियोजित होने एवं पिछला लाभ-परिलाभ प्राप्त करने के अधिकारी नहीं होंगे। उपरोक्त 11 श्रमिकगणों में से प्रत्येक श्रमिक गण को पचास-पचास हजार रुपये क्षति पूर्ति राशि के रूप में दिलाये जाते हैं।

हेमन्त कुमार जैन, न्यायाधीश